

# RECIPIENT/SUBRECIPIENT AGREEMENT

STATE OF FLORIDA

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION

FWC Agreement #24048

Federal Grant Information	
CFDA Title(s): Sport Fish Restoration	CFDA No(s): 15.605
Name of Federal Agency(s): Department of Interior, Office of Conservation Investment	
Federal Award No(s): F24AF01841	Federal Award Year(s): 2024
Federal Award Name(s): City of Clearwater – Clearwater Beach Marina Renovation	

This Agreement is entered into by and between the Florida Fish and Wildlife Conservation Commission, whose address is 620 South Meridian Street, Tallahassee, Florida 32399-1600, hereafter “Commission” or “FWC,” and City of Clearwater, F59-6000289-046, whose address is 100 S. Myrtle Ave., Clearwater, FL 33756, the Recipient/Subrecipient, hereinafter “Recipient”, collectively, “Parties”.

## INTRODUCTORY CLAUSES

**WHEREAS**, Commission and Recipient intend to partner together to reconstruct the existing Clearwater Beach Marina’s aging transient recreational vessel facility including transient and fuel dock replacement and the addition of a 265 linear foot segment of side-tie dockage;

**WHEREAS**, such benefits are for the ultimate good of the State of Florida, its resources, wildlife, and public welfare.

## TERMS OF THE AGREEMENT

The Commission and the Recipient, for the considerations stated in this Agreement, agree as follows:

### **PROJECT DESCRIPTION.**

The Recipient shall provide the services and perform the specific responsibilities and obligations, as set forth in the Scope of Work, attached hereto as Attachment A, which specifically identifies project tasks and accompanying deliverables. These deliverables must be submitted and approved by the Commission prior to any payment. The Commission will not accept any deliverable that does not comply with the specified required minimum level of service to be performed and the criteria for evaluating the successful completion of each deliverable. If this Agreement is the result of Recipient responses to the Commission’s request for competitive or other grant proposals, the Recipient’s response is hereby incorporated by reference.

**PERFORMANCE.**

The Recipient shall perform the activities described in Attachment A in a proper and satisfactory manner. Unless otherwise provided for in Attachment A, any and all equipment, products or materials necessary or appropriate to perform under this Agreement shall be supplied by the Recipient. The Recipient shall obtain all necessary local, state, and federal authorizations necessary to complete this project, and the Recipient shall be licensed as necessary to perform under this Agreement as may be required by law, rule, or regulation; the Recipient shall provide evidence of such compliance to the Commission upon request. The Recipient shall procure all supplies and pay all charges, fees, taxes and incidentals that may be required for the completion of this Agreement. By acceptance of this Agreement, the Recipient warrants that it has the capability in all respects to fully perform the requirements and the integrity and reliability that will assure good-faith performance as a responsible Recipient. The Recipient shall immediately notify the Commission's Grant Manager in writing if its ability to perform under the Agreement is compromised in any manner during the term of the Agreement. The Commission shall take appropriate action, including potential termination of this Agreement, in the event the Recipient's ability to perform under this Agreement becomes compromised.

**AGREEMENT PERIOD.****Agreement Period and Commission's Limited Obligation to Pay.**

The Agreement shall be effective upon execution by the last Party to sign and shall remain in effect through 05/31/2027.

However, if this Agreement is made pursuant to a grant award as authorized by Rule 68-1.003, F.A.C., the referenced grant programs may execute Agreements with a retroactive start date of no more than sixty (60) days, provided that approval is granted from the Executive Director or his/her designee and that it is in the best interest of the Commission and State to do so. For this Agreement, the retroactive start date was not approved. The Commission's Grant Manager shall confirm the specific start date of the Agreement by written notice to the Recipient. The Recipient shall not be eligible for reimbursement or compensation for grant activities performed prior to the start date of this Agreement nor after the end date of the Agreement. For this Agreement, pre-award costs are not eligible for reimbursement. If necessary, by mutual agreement as evidenced in writing and lawfully executed by the Parties, an Amendment to this Agreement may be executed to lengthen the Agreement period.

**Extension.**

The Commission may extend this Agreement upon agreement of both Parties through an Amendment, provided the funding source permits additional time prior to expiration of funding.

**COMPENSATION AND PAYMENTS.****Compensation.**

As consideration for the services rendered by the Recipient under the terms of this Agreement, the Commission shall pay the Recipient on a cost reimbursement basis in an amount not to exceed \$1,706,760.00.

**Payments.**

The Commission shall pay the Recipient for satisfactory performance of the tasks identified in Attachment A as evidenced by the completed deliverables, upon submission of invoices, accompanied by supporting

documentation sufficient to justify invoiced expenses or fees, and after acceptance of services and deliverables in writing by the Commission's Grant Manager. Unless otherwise specified in Attachment A, invoices shall be due monthly, commencing from the start date of this Agreement. Invoices must be legible and must clearly reflect the Deliverables that were provided in accordance with the terms of the Agreement for the invoice period. Unless otherwise specified in Attachment A, a final invoice shall be submitted to the Commission no later than forty-five (45) days following the expiration date of this Agreement to assure the availability of funds for payment. Further, pursuant to Section 215.971(1)(d), F.S., the Commission may only pay the Recipient for allowable costs resulting from obligations incurred during the Agreement period.

### **Invoices.**

Each invoice shall include the Commission Agreement Number and the Recipient's Federal Employer Identification (FEID) Number. Invoices, with supporting documentation, may be submitted electronically to the attention of the Commission's Grant Manager. If submitting hard copies, an original and two (2) copies of the invoice, plus all supporting documentation, shall be submitted. All bills for amounts due under this Agreement shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof. Recipient acknowledges that the Commission's Grant Manager shall reject invoices lacking documentation necessary to justify invoiced expenses.

### **Match**

If this Agreement is made pursuant to a grant award as authorized by Rule 68-1.003, F.A.C., the Recipient is required to contribute non-federal match towards this Agreement. If applicable, details regarding specific match requirements are included in Attachment A.

### **State Obligation to Pay.**

The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation and authorization to spend by the Legislature. The Parties hereto understand that this Agreement is not a commitment to future appropriations but is subject to appropriation and authority to spend provided by the Legislature. The Commission shall be the final authority as to the availability of funds for this Agreement, and as to what constitutes an "annual appropriation" of funds to complete this Agreement. If such funds are not appropriated or available for the Agreement purpose, such event will not constitute a default on behalf of the Commission or the State. The Commission's Grant Manager shall notify the Recipient in writing at the earliest possible time if funds are not appropriated or available.

### **Non-Competitive Procurement and Rate of Payment.**

Section 216.3475, F.S., requires that under non-competitive procurements, a Recipient may not receive a rate of payment in excess of the competitive prevailing rate for those services unless expressly authorized in the General Appropriations Act. If applicable, Recipient warrants, by execution of this Agreement, that the amount of non-competitive compensation provided in this Agreement is in compliance with Section 216.3475, F.S.

### **Cost Reimbursement**

If the Compensation section indicates this is a cost reimbursement Agreement, the Recipient shall be paid on a cost reimbursement basis for all eligible Project costs upon the completion, submittal, and approval of each deliverable identified in Attachment A. To be eligible for reimbursement, costs must follow the requirements of Section 215.971, F.S. and must also be in compliance with other laws, rules, and regulations applicable to expenditures of State funds, including, but not limited to, the [Reference Guide for State Expenditures](#).

Invoices submitted for cost reimbursement must be itemized by expenditure category as outlined in the approved Agreement budget. Additionally, the invoice must evidence the completion of all tasks required to be performed for the deliverable and must show that the Recipient met the minimum performance standards established in the Agreement. The Commission is required to maintain detailed supporting documentation and to make it available for audit purposes. By submission of the payment request, the Commission is certifying that the detailed documentation to support each item on the itemized invoice is on file at the agency and is available for audit.

Documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for the categories in the approved Agreement budget may be reimbursed. These expenditures must be allowable (pursuant to law) and directly related to the services being provided. The Commission may require more detailed documentation as deemed appropriate to satisfy that the terms of the Agreement have been met.

Listed below are types and examples of their supporting documentation:

- i. **Salaries:** Timesheets that support the hours worked on the project or activity must be kept. A payroll register or similar documentation should be submitted and maintained. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.
- ii. **Tuition:** If the Commission determines tuition, stipends, and/or waivers are allowable costs, the payments must result from obligations incurred during the specified Agreement period. Documentation must be provided to show compliance with 215.971, F.S. Examples include but are not limited to keeping timesheets/time and effort reports/logs that support the hours worked on the project or activity. If an individual for whom tuition, stipends and/or waivers are being claimed are paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.
- iii. **Fringe Benefits:** Supported by invoices showing the amount paid on behalf of the employee (e.g., insurance premiums paid). If the Agreement specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown.
  - a. Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.
- iv. **Travel:** To the extent the Commission determines travel is an allowable cost, reimbursement for travel must be in accordance with Section 112.061, Florida Statutes, which includes submission of the claim on the approved State travel voucher along with supporting receipts and invoices.
- v. **Other Direct Costs:** To the extent the Commission determines other direct costs are allowable, reimbursement will be made based on paid invoices/receipts and proof of payment processing (cancelled/processed checks and bank statements).
- vi. **In-House Charges:** Charges which may be of an internal nature (e.g., postage, copies, etc.) may be reimbursed on a usage log which shows the units times the rate being charged. The rates must be reasonable.

- vii. **Indirect Costs:** To the extent the Commission determines that indirect costs are allowable, and the Agreement specifies that indirect costs will be paid based on a specified rate, then the calculation should be provided in the Agreement's budget breakdown. Indirect costs must be in the approved Agreement budget and the Recipient must be able to demonstrate that the costs are not duplicated elsewhere as direct costs. All indirect cost rates must be evaluated for reasonableness and for allowability and must be allocated consistently.

For cost reimbursement Agreements with another State agency (including State universities):

In lieu of the detailed documentation described above, alternative documentation may be submitted to substantiate the costs requested to be reimbursed. This alternative documentation may be in the form of FLAIR reports or other reports containing sufficient detail.

#### **Time Limits for Payment of Invoices.**

Payments shall be made in accordance with Sections 215.422 and 287.0585, F.S., which govern time limits for payment of invoices. Section 215.422, F.S. provides that agencies have five (5) working days to inspect and approve Deliverables, unless Attachment A specifies otherwise. If payment is not available within forty (40) days, measured from the latter of the date the invoice is received or the Deliverables are received, inspected and approved, a separate interest penalty set by the Department of Financial Services pursuant to Section 55.03(1), F.S., will be due and payable in addition to the invoice amount. Invoices returned to a Recipient due to preparation errors will result in a payment delay. Invoice payment requirements do not start until a properly completed invoice is provided to the agency.

#### **Electronic Funds Transfer.**

Recipient agrees to enroll in Electronic Funds Transfer (EFT), offered by the State's Chief Financial Officer, within thirty (30) days of the date the last Party has signed this Agreement. Copies of the Authorization form and a sample blank enrollment letter can be found on the vendor instruction page at: <https://www.myfloridacfo.com/division/aa/vendors>. Questions should be directed to the State of Florida's EFT Section at (850) 413-5517. Once enrolled, invoice payments will be made by EFT.

#### **Vendor Ombudsman.**

A Vendor Ombudsman, whose duties include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from a State agency, may be contacted at (850) 413-5516 or by calling the Chief Financial Officer's Hotline, (800) 342-2762.

## **RETURN OR RECOUPMENT OF FUNDS**

#### **Unobligated Funds.**

Pursuant to Section 215.971(1)(d)-(e), F.S., the Commission may only pay the Recipient for allowable costs resulting from obligations incurred during the Agreement period, and any balance of unobligated funds that has been advanced or paid must be refunded to the Commission. Any funds paid in excess of the amount to which the Recipient is entitled under the terms and conditions of the Agreement must be refunded to the Commission as well.

#### **Overpayments to Recipient.**

Pursuant to Section 215.971(1)(f), F.S., any funds paid in excess of the amount to which the Recipient is entitled under the terms and conditions of the Agreement must be refunded to the Commission. In the event the Recipient or its independent auditor discovers that overpayment has been made, the Recipient shall

repay said overpayment within forty (40) calendar days without prior notification from the Commission. In the event the Commission first discovers an overpayment has been made, the Commission will notify the Recipient in writing. Should repayment not be made in a timely manner, the Commission shall be entitled to charge interest at the lawful rate of interest established pursuant to Section 55.03(1), F.S., on the outstanding balance beginning forty (40) calendar days after the date of notification or discovery. Refunds should be sent to the Commission's Grant Manager and made payable to the "Florida Fish and Wildlife Conservation Commission."

**Additional Costs or Monetary Loss Resulting from Recipient Non-Compliance.**

If the Recipient's non-compliance with any provision of the Agreement results in additional cost or monetary loss to the Commission or the State of Florida to the extent allowed by Florida Law, the Commission can recoup that cost or loss from monies owed to the Recipient under this Agreement or any other agreement between Recipient and the Commission. In the event the discovery of this cost or loss arises when no monies are available under this Agreement or any other agreement between the Recipient and the Commission, the Recipient will repay such cost or loss in full to the Commission within thirty (30) days of the date of notice of the amount owed, unless the Commission agrees, in writing, to an alternative timeframe. If the Recipient is unable to repay any cost or loss to the Commission, the Commission shall utilize remedies available by law and may notify the State of Florida, Department of Financial Services, pursuant to Section 17.0415, F.S.

**COMMISSION EXEMPT FROM TAXES, PROPERTY EXEMPT FROM LIEN.**

**Commission Exempt from Taxes.**

The Recipient recognizes that the State of Florida, by virtue of its sovereignty, is not required to pay any taxes on the services or goods purchased under the terms of this Agreement. The Recipient is placed on notice that this exemption generally does not apply to nongovernmental entity recipients, subrecipients, contractors, or subcontractors. Any questions regarding this tax exemption should be addressed to the Commission's Grant Manager.

**Property Exempt from Lien.**

If the Agreement involves the improvement of real property titled to the State of Florida, then the following paragraph applies:

The Recipient acknowledges that Property being improved is titled to the State of Florida and is not subject to lien of any kind for any reason. The Recipient shall include notice of such exemptions in any subcontracts and purchase orders issued hereunder.

**MONITORING.**

The Commission's Grant Manager shall actively monitor the Recipient's performance and compliance with the terms of this Agreement. The Commission reserves the right for any Commission staff to make scheduled or unscheduled, announced or unannounced monitoring visits. Specific State and Federal monitoring terms and conditions are found in the Requirements of the Federal and Florida Single Audit Acts, Attachment B. Monitoring terms, conditions, and schedules may be included in Attachment A.

## **TERMINATION.**

### **Commission Unilateral Termination.**

The Commission may unilaterally terminate this Agreement for convenience by providing the Recipient with thirty (30) calendar days of written notice of its intent to terminate. The Recipient shall not be entitled to recover any cancellation charges or lost profits. The Recipient may request termination of the Agreement for convenience.

### **Termination – Fraud or Willful Misconduct.**

This Agreement shall terminate immediately in the event of fraud or willful misconduct. In the event of such termination, the Commission shall provide the Recipient with written notice of termination.

### **Termination – Funds Unavailability.**

In the event funds to finance this Agreement become unavailable or if federal or state funds upon which this Agreement is dependent are withdrawn or redirected, the Commission may terminate this Agreement upon no less than twenty-four (24) hours' notice in writing to the Recipient. Said notice shall be delivered by certified mail, return receipt requested or in person with proof of delivery. The Commission shall be the final authority as to the availability of funds and will not reallocate funds appropriated for this Agreement to another program thus causing "lack of funds." In the event of termination of this Agreement under this provision, the Recipient will be compensated for any work satisfactorily completed and any non-cancellable obligations properly incurred prior to notification of termination.

### **Termination – Other.**

The Commission may terminate this Contract if the Recipient fails to: 1.) comply with all terms and conditions of this Agreement; 2.) produce each deliverable within the time specified by the Agreement or extension; 3.) maintain adequate progress, thus endangering the performance of the Agreement; or, 4.) abide by any statutory, regulatory, or licensing requirement. The Commission shall give written notice to the Recipient of its intent to terminate the Agreement for cause. In the notice, the Commission shall provide an opportunity for the Recipient to correct the deficiency or provide a corrective action plan to correct the deficiency for the Commission, in its sole determination, to approve or disapprove. If no corrective action plan is submitted and approved, the Recipient shall cure the deficiencies cited by the Commission in its notice within fifteen (15) calendar days of receipt of such notice. If the Recipient does not cure the deficiencies to the Commission's satisfaction within the fifteen (15) calendar days, or within the time proscribed in an approved corrective action plan if one was provided, the Agreement will be terminated for cause. At that time, the Commission will send a second notice to the Recipient noting that this Agreement is being terminated for cause upon receipt of the notice and documenting the reasons this Agreement is being terminated. The Commission reserves the right in its sole discretion, to determine if the Recipient's deficiencies are legally excusable, or to extend the time to cure the deficiencies in writing. The Recipient's damages for termination for cause shall be limited to the cost of work actually performed and approved by the Commission. Section 287.1351, F.S., governs the procedure and consequences for default. The rights and remedies of the Commission in this clause are in addition to any other rights and remedies provided by law or under the Agreement. Recipient shall not be entitled to recover any cancellation charges.

### **Recipient Discontinuation of Activities upon Termination Notice.**

Upon receipt of notice of termination, the Recipient shall, unless the notice directs otherwise, immediately discontinue all activities authorized hereunder. Upon termination of this Agreement, the Recipient shall promptly render to the Commission all property belonging to the Commission. For the purposes of this

section, property belonging to the Commission shall include, but shall not be limited to, all books and records kept on behalf of the Commission.

**REMEDIES.**

**Financial Consequences.**

In accordance with Sections 215.971(1)(a) & (b), F.S., Attachment A contains clearly established tasks in quantifiable units of deliverables that must be received and accepted in writing by the agency before payment. Each deliverable specifies the required minimum level of service to be performed and the criteria for evaluating the successful completion of each deliverable. If the Recipient fails to produce each deliverable within the time frame specified by Attachment A, the budget amount allocated for that deliverable will be reduced by ten percent (10%) from the Recipient’s payment, unless otherwise modified by Attachment A.

In addition, pursuant to Section 215.971(1)(c), the Commission shall apply any additional financial consequences as listed below or as identified in Attachment A.

- i. Temporarily withhold payments pending correction of the deficiency by the Contractor.
- ii. Reduction of payment if correction of deficiency is not made by the Contractor.
- iii. Disallow all or part of the cost of the activity or action not in compliance.
- iv. Wholly or partly suspend or terminate this agreement.
- v. Withhold future awards for the FWC projects.
- vi. Take other remedies that may be legally available.

**Cumulative Remedies.**

The rights and remedies of the Commission during the Agreement period are in addition to any other rights and remedies provided by law or under the Contract.

**NOTICES AND CORRESPONDENCE.**

Any and all notices shall be delivered to the individuals identified below. In the event that either Party designates a different Grant Manager after the execution of this Agreement, the Party will provide written notice of the name, address, zip code, telephone, and email address of the newest Grant Manager, or an individual authorized to receive notice on behalf of that Party, to all other Parties as soon as possible, but not later than five (5) business days after the new Grant Manager has been named. Designating a new Grant Manager shall not require a formal Amendment to the Agreement.

**COMMISSION GRANT MANAGER CONTACT INFORMATION:**

Joshua Bradt  
 BIGP Administrator  
 FL Fish & Wildlife Conservation Commission

**RECIPIENT GRANT MANAGER CONTACT INFORMATION:**

Michael Macdonald  
 Marine and Aviation Director  
 25 Causeway Boulevard, Suite 102



620 S. Meridian Street  
Tallahassee, FL 32399  
850-717-2108  
Joshua.Bradt@myfwc.com

Clearwater, FL 33767  
(727) 444-4660  
[michael.macdonald@MyClearwater.com](mailto:michael.macdonald@MyClearwater.com)

## AMENDMENT.

### **Waiver or Modification.**

No waiver or modification of this Agreement or of any covenant, condition, or limitation herein contained shall be valid unless in writing and lawfully executed by the Parties.

### **Change Orders.**

The Commission may, at any time, by written order, make a change to this Agreement. Such changes are subject to the mutual agreement of both Parties as evidenced in writing. Any change which causes an increase or decrease in the Recipient's cost or time shall require an Amendment. Minor changes, such as those updating a Party's contact information, may be accomplished by a Modification.

### **Renegotiation upon Change in Law or Regulations.**

The Parties agree to renegotiate this Agreement if federal and/or state revisions of any applicable laws or regulations make changes in the Agreement necessary.

## PROPERTY RIGHTS.

If this Agreement includes Federal funds, the provisions of Sections 200.310-200.316, Office of Management and Budget (OMB) Uniform Guidance (2 CFR 200), and any language addressing Federal rights, apply.

### **Intellectual and Other Intangible Property.**

- i. **Recipient's Preexisting Intellectual Property (Proprietary) Rights.** Unless specifically addressed in Attachment A, intellectual and other intangible property rights to the Recipient's preexisting property will remain with the Recipient.
- ii. **Proceeds Related to Intellectual Property Rights.** Proceeds derived from the sale, licensing, marketing or other authorization related to any intellectual and other intangible property right created or otherwise developed by the Recipient under this Agreement for the Commission shall be handled in the manner specified by the applicable Florida State Statute and/or Federal program requirements.
- iii. **Commission Intellectual Property Rights.** Where activities supported by this Agreement produce original writing, sound recordings, pictorial reproductions, drawings or other graphic representations and works of any similar nature, the Commission and the State of Florida have the unlimited, royalty-free, nonexclusive, irrevocable right to use, duplicate and disclose such materials in whole or in part, in any manner, for any purpose whatsoever and to have others acting on behalf of the Commission to do so. If this Agreement is supported by Federal funds, the Federal awarding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for federal purposes, and to authorize others to do so.

### **Purchase or Improvement of Real Property.**

This Agreement is for the purchase or improvement of real property, therefore the following terms and conditions apply.

- i. **Federal Funds.** Any Federal funds provided for the purchase of or improvements to real property are subject to the Property Standards of Sections 200.310 - 200.316, and 200.329, OMB Uniform Guidance (2 CFR 200), as amended.
- ii. **Title.** If this Agreement is supported by state funds, the Recipient shall comply with Section 287.05805, F.S. This section requires the Recipient to grant a security interest in the property to the State of Florida, the type and details of which are provided for in Attachment A. Title to state-owned real property remains vested in the state. Title to federally owned real property remains vested in the Federal government in accordance with the provisions of Section 200.312, OMB Uniform Guidance (2 CFR 200), as amended.
- iii. **Use.** Federally owned real property will be used for the originally authorized purpose as long as needed for that purpose in accordance with Section 200.311, OMB Uniform Guidance (2 CFR 200). State-owned real property will be used as provided in Attachment A.

### **Non-Expendable Property.**

- i. **Non-Expendable Property Defined.** For the requirements of this section of the Agreement, “non-expendable property” is the same as “property” as defined in Section 273.02, F.S. (equipment, fixtures, and other tangible personal property of a non-consumable and non-expendable nature, with a value or cost of **\$5,000.00** or more, and a normal expected life of one (1) year or more; hardback-covered bound books that are circulated to students or the general public, with a value or cost of **\$25.00** or more; and uncirculated hardback-covered bound books, with a value or cost of **\$250.00** or more).
- ii. **Title to Non-Expendable Property.** Title (ownership) to all non-expendable property acquired with funds from this Agreement shall be vested in the Commission and said property shall be transferred to the Commission upon completion or termination of the Agreement unless otherwise authorized in writing by the Commission or unless otherwise specifically provided for in Attachment A.

### **Equipments and Supplies**

- i. **Title - Equipment.** Title to equipment acquired under a Federal award will vest upon acquisition in the non-Federal entity in accordance with Sections 200.313 and 200.314, OMB Uniform Guidance (2 CFR 200).
- ii. **Title – Supplies.** Title to supplies will vest in the non-Federal entity upon acquisition. Unused supplies exceeding **\$5,000.00** in total aggregate value upon termination or completion of the project or program are subject to Section 200.314, OMB Uniform Guidance.
- iii. **Use – Equipment.** Equipment must be used by the non-Federal entity in the program or project for which it was acquired as long as needed.

## **RELATIONSHIP OF THE PARTIES.**

### **Conflict of Interest.**

The Recipient covenants that it presently has no interest and shall not acquire any interest that would conflict in any manner or degree with the performance of services required. Each Party hereto covenants that there is no conflict of interest or any other prohibited relationship between the Recipient and the Commission.

### **Recipient Training Qualifications.**

The Recipient agrees that all Recipient employees, subrecipients, subcontractors, or agents performing work under the Agreement shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Recipient shall furnish a copy of technical certification or other proof of qualification.

### **Commission Security.**

All employees, subrecipients, subcontractors, or agents performing work under the Agreement must comply with all security and administrative requirements of the Commission. The Commission may conduct, and the Recipient shall cooperate in, a security background check or otherwise assess any employee, subcontractor, or agent furnished by the Recipient. The Commission may refuse access to, or require replacement of, any personnel for cause, including, but not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with the Commission's other requirements. Such refusal shall not relieve Recipient of its obligation to perform all work in compliance with the Agreement. The Commission, in coordination with the Recipient, may reject and bar from any facility for cause any of Recipient's employees, subcontractors, or agents.

### **Commission Rights to Assign or Transfer.**

The Recipient agrees that the State of Florida shall at all times be entitled to assign or transfer its rights, duties, or obligations under this Agreement to another governmental agency in the State of Florida, upon giving prior written notice to the Recipient.

### **Commission Rights to Undertake or Award Supplemental Contracts.**

The Recipient agrees that the Commission may undertake or award supplemental agreements for work related to the Agreement. The Recipient and its subcontractors shall cooperate with such other Recipients and the Commission in all such cases.

## **SUBCONTRACTS.**

The Recipient is permitted to subcontract work under this Agreement, therefore, the following terms and conditions apply.

### **Authority.**

The Recipient shall ensure, and provide assurances to the Commission upon request, that any subrecipient or subcontractor selected for work under this Agreement has the necessary qualifications and abilities to perform in accordance with the terms and conditions of this Agreement. The Recipient must provide the Commission with the names of any subrecipient or subcontractor considered for work under this Agreement; the Commission reserves the right to reject any subrecipient or subcontractor. The Recipient agrees to be responsible for all work performed and all expenses incurred with the project. Any subrecipient

or subcontract arrangements must be evidenced by a written document available to the Commission upon request. The Recipient further agrees that the Commission shall not be liable to any subrecipient or subcontractor for any expenses or liabilities incurred under the subrecipient agreement or subcontract. The Recipient, at its expense, will defend the Commission against such claims. The following provisions apply in addition to any terms and conditions included in Attachment A.

**Recipient Payments to Subcontractor or Subrecipient.**

If subcontracting is permitted pursuant to Paragraph A, above, Recipient agrees to make payments to the subcontractor within seven (7) working days after receipt of full or partial payments from the Commission in accordance with Section 287.0585, F.S., unless otherwise stated in the agreement between the Recipient and subcontractor. Recipient's failure to pay its subcontractors within seven (7) working days will result in a penalty charged against the Recipient and paid to the subcontractor in the amount of one-half of one percent (0.50%) of the amount due per day from the expiration of the period allowed herein for payment. Such penalty shall be in addition to actual payments owed and shall not exceed fifteen percent (15%) of the outstanding balance due.

If entering a subrecipient agreement is permitted pursuant to Paragraph A above, Recipient agrees to make payments to the subrecipient for satisfactory performance of the tasks/deliverables identified in the subrecipient agreement. Recipient shall pay subrecipient following the same procedures described in paragraph 4 of this Agreement upon submission of invoices for allowable expenses, accompanied by supporting documentation sufficient to justify invoiced expenses or fees, and after acceptance of services and deliverables in writing by the Recipient.

**Commission Right to Reject Subrecipient or Subcontractor Employees.**

The Commission shall retain the right to reject any of the Recipient's, subrecipient's or subcontractor's employees working or anticipated to work on this project, whose qualifications or performance, in the Commission's judgment, are insufficient.

**Subcontractor and Subrecipient Conflict of Interest.**

If subcontracting or entering a subrecipient agreement is permitted pursuant to Paragraph A above, the Recipient agrees to take such actions as may be necessary to ensure that each subcontractor or subrecipient covenants that it presently has no interest and shall not acquire any interest that would conflict in any manner or degree with the performance of services required. Each Party hereto covenants that there is no conflict of interest or any other prohibited relationship between the Recipient, as applicable subrecipient or subcontractor, and the Commission.

**MANDATORY DISCLOSURE.**

These disclosures are required by State law, as indicated, and apply when this Agreement includes State funding; and by Federal law, as indicated, and apply when the Agreement includes a Federal award.

**Disclosure of Interested State Employees.**

This Agreement is subject to Chapter 112, F.S. Recipient shall provide the name of any officer, director, employee, or other agent who is affiliated with this project and an employee of the State of Florida. If the Agreement includes a Federal award, then the Agreement is also subject to Section 200.112, OMB Uniform Guidance (2 CFR 200). Recipient must disclose, in writing, any potential conflict of interest to the Commission in accordance with applicable Federal awarding agency policy.

### **Convicted Vendors.**

The Recipient hereby certifies that neither it, nor any person or affiliate of Recipient, has been convicted of a Public Entity Crime as defined in section 287.133, F.S., nor placed on the convicted vendor list. Recipient shall have a continuing obligation to disclose, to the Commission, in writing, if it, its principals, recipient, subrecipient, contractor, or subcontractor, are on the convicted vendors list maintained by the Florida Department of Management Services pursuant to Section 287.133(3)(d), F.S.

- i. **Convicted Vendor List.** Pursuant to Subsection 287.133(2)(a), F.S., a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not be awarded or perform work as a Recipient, supplier, subcontractor or consultant under a contract with any public entity and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, F.S., for Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. The State of Florida, Department of Management Services, Division of State Purchasing provides listings for convicted, suspended, discriminatory and federal excluded parties, as well as the vendor complaint list at: [https://www.dms.myflorida.com/business\\_operations/state\\_purchasing/state\\_agency\\_resources/vendor\\_registration\\_and\\_vendor\\_lists](https://www.dms.myflorida.com/business_operations/state_purchasing/state_agency_resources/vendor_registration_and_vendor_lists)
- ii. **Notice of Conviction of Public Entity Crime.** Any person must notify the Department of Management Services and the Commission, in writing, within thirty (30) days after conviction of a public entity crime applicable to that person or an affiliate of that person as defined in Section 287.133, F.S.
- iii. **Vendors on Scrutinized Companies List.** The Recipient certifies that it and any of its affiliates are not scrutinized companies as identified in Section 287.135, F.S. In addition, the Recipient agrees to observe the requirements of Section 287.135, F.S., for applicable sub-agreements entered into for the performance of work under this Agreement. Pursuant to Section 287.135, F.S., the Commission may immediately terminate this Agreement for cause if the Recipient, its affiliates, or its subcontractors are found to have submitted a false certification; or if the Recipient, its affiliates, or its subcontractors are placed on any applicable scrutinized companies list or engaged in prohibited contracting activity during the term of the Agreement. As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions, then they shall become inoperative.

### **Discriminatory Vendors.**

The Recipient shall disclose to the Commission, in writing, if they, their subrecipient, contractor, or subcontractor, are on the Discriminatory Vendor List maintained by the Florida Department of Management Services pursuant to Section 287.134(3)(d), F.S. “An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.” Section 287.134(2)(a), F.S. Recipient has a continuing duty to disclose to the Commission whether they appear on the discriminatory vendor list.

### **Prompt Disclosure of Litigation, Investigations, Arbitration, or Administrative Proceedings.**

Throughout the term of the Agreement, the Recipient has a continuing duty to promptly disclose to the Commission’s Grant Manager, in writing, upon occurrence, all civil or criminal litigation, investigations,

arbitration, or administrative proceedings (Proceedings) relating to or affecting the Recipient's ability to perform under this Agreement. If the existence of such Proceeding causes the Commission concern that the Recipient's ability or willingness to perform the Agreement is jeopardized, the Recipient may be required to provide the Commission with reasonable assurances to demonstrate that: a.) the Recipient will be able to perform the Agreement in accordance with its terms and conditions; and, b.) Recipient and/or its employees or agents have not and will not engage in conduct in performing services for the Commission which is similar in nature to the conduct alleged in such Proceeding.

#### **Certain Violations of Federal Criminal Law.**

If this Agreement includes a Federal award, then in accordance with Section 200.113, OMB Uniform Guidance (2 CFR 200), Recipient must disclose, in a timely manner, in writing to the Commission all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

### **INSURANCE.**

If the Recipient is a state or federal agency with self-insurance, Recipient warrants and represents that it is insured, or self-insured for liability insurance, in accordance with applicable state or federal law and that such insurance or self-insurance offers protection applicable to the Recipient's officers, employees, servants and agents while acting within the scope of their employment with the Recipient.

If the Recipient is not a state or federal agency with self-insurance, then the following applies:

#### **Reasonably Associated Insurance.**

During the term of the Agreement, the Recipient, at its sole expense, shall maintain insurance coverage of such types and with such terms and limits as may be reasonably associated with the Agreement. Providing and maintaining adequate insurance coverage is a material obligation of the Recipient, and failure to maintain such coverage may void the Agreement. The limits of coverage under each policy maintained by the Recipient shall not be interpreted as limiting the Recipient's liability and obligations under the Agreement. All insurance policies shall be through insurers licensed and authorized to write policies in Florida.

#### **Workers Compensation.**

To the extent required by Chapter 440, F.S., the Recipient will either be self-insured for Worker's Compensation claims or will secure and maintain during the life of this Agreement, Worker's Compensation Insurance for all of its employees connected with the work of this project, with minimum employers' liability limits of \$100,000.00 per accident, \$100,000.00 per person, and \$500,000.00 policy aggregate. Such policy shall cover all employees engaged in any contract work. If any work is subcontracted, the Recipient shall require the subcontractor similarly to provide Workers' Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the Recipient. Such self-insurance program or insurance coverage shall comply fully with the Florida Workers' Compensation Law (Chapter 440, F.S.). In case any class of employees engaged in hazardous work under this Agreement is not protected under Workers' Compensation statutes, the Recipient shall provide, and cause each subcontractor to provide, adequate insurance satisfactory to the Recipient, for the protection of its employees not otherwise protected. Employers who have employees who are engaged in work in Florida must use Florida rates, rules, and classifications for those employees.

**General Liability Insurance.**

By execution of this Agreement, unless Recipient is a state agency or subdivision as defined by Subsection 768.28(2), F.S. or unless otherwise provided for in Attachment A, the Recipient shall provide reasonable and adequate commercial general liability insurance coverage and hold such liability insurance at all times during the Agreement. A self-insurance program established and operating under the laws of the State of Florida may provide such coverage.

**Insurance Required for Performance.**

During the Agreement term, the Recipient shall maintain any other types and forms of insurance required for the performance of this Agreement as required in Attachment A.

**Written Verification of Insurance.**

Upon execution of this Agreement, the Recipient shall provide the Commission written verification of the existence and amount for each type of applicable insurance coverage. Within thirty (30) days of the effective date of the Agreement, Recipient shall furnish proof of applicable insurance coverage to the Commission's Grant Manager by standard Association for Cooperative Operations Research and Development (ACORD) form certificates of insurance. In the event that any applicable coverage is cancelled by the insurer for any reason, Recipient shall immediately notify the Commission's Grant Manager in writing of such cancellation and shall obtain adequate replacement coverage conforming to the requirements herein and provide proof of such replacement coverage within fifteen (15) business days after the cancellation of coverage.

**Commission Not Responsible for Insurance Deductible.**

The Commission shall be exempt from, and in no way liable for, any sums of money representing a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of Recipient providing such insurance.

**SPONSORSHIP.**

As required by Section 286.25, F.S., if the Recipient is a nongovernmental organization which sponsors a program financed wholly or in part by state funds, including any funds obtained through this Agreement, it shall, in publicizing, advertising, or describing the sponsorship of the program, state: "Sponsored by (Recipient's name) and the State of Florida, Fish and Wildlife Conservation Commission." If the sponsorship reference is in written material, the words "State of Florida, Fish and Wildlife Conservation Commission" shall appear in the same size letters or type as the name of the Recipient's organization. Additional sponsorship requirements may be specified in Attachment A.

**PUBLIC RECORDS.**

- A. All records in conjunction with this Agreement shall be public records and shall be treated in the same manner as other public records that are under Chapter 119, F.S.
- B. This Agreement may be unilaterally canceled by the Commission for refusal by the Recipient to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, F.S., and made or received by the Recipient in conjunction with this Agreement, unless exemption for such records is allowable under Florida law.

- C. If the Recipient meets the definition of “Contractor” in Section 119.0701(1)(a) F.S., the Recipient shall comply with the following:
- i. **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF THE CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: 850-488-6553, [RecordsCustodian@myfwc.com](mailto:RecordsCustodian@myfwc.com), and 620 South Meridian Street, Tallahassee FL 32399**
  - ii. Keep and maintain public records required by the Commission to perform the service.
  - iii. Upon request from the Commission’s custodian of public records, provide the Commission with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S. or as otherwise provided by law.
  - iv. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the Commission.
  - v. Upon completion of the contract transfer, at no cost, to the Commission all public records in possession of the Contractor or keep and maintain public records required by the Commission to perform the service. If the Contractor transfers all public records to the Commission upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Commission, upon request from the Commission’s custodian of public records, in a format that is compatible with the information technology systems of the Commission.

**COOPERATION WITH INSPECTOR GENERAL.**

Pursuant to subsection 20.055(5), F.S., Recipient, and any subcontractor to the Recipient, understand and will comply with their duty to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing. Upon request of the Inspector General or any other authorized State official, the Recipient shall provide any type of information the Inspector General deems relevant to the Recipient's integrity or responsibility. Such information may include, but shall not be limited to, the Recipient's business or financial records, documents, or files of any type or form that refer to or relate to the Agreement. The Recipient agrees to reimburse the State for the reasonable costs of investigation incurred by the Inspector General or other authorized State official for investigations of the Recipient's compliance with the terms of this or any other agreement between the Recipient and the State which results in the suspension or debarment of the Recipient. Such costs shall include but not be limited to salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees.



## **SECURITY AND CONFIDENTIALITY.**

The Recipient shall maintain the security of any information created under this Agreement that is identified or defined as “confidential” in Attachment A. The Recipient shall not divulge to third Parties any confidential information obtained by the Recipient or its agents, distributors, resellers, subcontractors, officers or employees in the course of performing Agreement work. To ensure confidentiality, the Recipient shall take appropriate steps regarding its personnel, agents, and subcontractors. The warranties of this paragraph shall survive the Agreement.

## **RECORD KEEPING REQUIREMENTS.**

### **Recipient Responsibilities.**

The Recipient shall maintain accurate books, records, documents and other evidence that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement, in accordance with generally accepted accounting principles.

### **State Access to Contractor Books, Documents, Papers, and Records.**

The Recipient shall allow the Commission, the Chief Financial Officer of the State of Florida, the Auditor General of the State of Florida, the Florida Office of Program Policy Analysis and Government Accountability or authorized representatives of the state or federal government to have access to any of the Recipient’s books, documents, papers, and records, including electronic storage media, as they may relate to this Agreement, for the purposes of conducting audits or examinations or making excerpts or transcriptions..

### **Recipient Records Retention.**

Unless otherwise specified in Attachment A, these records shall be maintained for five (5) fiscal years following the close of this Contract, or the period required for this particular type of project by the General Records Schedules maintained by the Florida Department of State (<https://dos.myflorida.com/library-archives/records-management/general-records-schedules/>), whichever is longer. Recipient shall cooperate with the Commission to facilitate the duplication and transfer of such records upon the Commission’s request.

### **Recipient Responsibility to Include Records Requirements – Subcontractors.**

In the event any work is subcontracted under this Agreement, the Recipient shall include the aforementioned audit and record keeping requirements in all subsequent contracts.

### **Compliance with Federal Funding Accountability and Transparency.**

Any federal funds awarded under this Agreement must comply with the Federal Funding Accountability and Transparency Act (FFATA) of 2006. The intent of the FFATA is to empower every American with the ability to hold the government accountable for each spending decision. The result is to reduce wasteful spending in the government. The FFATA legislation requires that information on federal awards (federal financial assistance and expenditures) be made available to the public via a single, searchable website: [www.USASpending.gov](http://www.USASpending.gov). Grant recipients awarded a new Federal grant greater than or equal to **\$25,000.00** awarded on or after October 1, 2010, are subject to the FFATA. The Recipient agrees to provide the information necessary, over the life of this Agreement, for the Commission to comply with this requirement.

## **FEDERAL AND FLORIDA SINGLE AUDIT ACT (FSAA) REQUIREMENTS.**

Pursuant to the FSAA (or Federal) Vendor / Recipient Determination Checklist, the Recipient has been determined to be a recipient of state financial assistance and/or a subrecipient of a federal award. Therefore, pursuant to Section 215.97, F.S. and/or OMB Uniform Guidance (2 CFR 200), the Recipient may be subject to the audit requirements of the Florida and/or Federal Single Audit Acts. If applicable, the Recipient shall comply with the audit requirements outlined in Attachment B, attached hereto and made a part of the Agreement, as applicable.

## **FEDERAL COMPLIANCE.**

As applicable, Recipient shall comply with all federal laws, rules, and regulations, including but not limited to:

### **Clean Air Act and Water Pollution Control Act.**

All applicable standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. 7401-7671q), and the Water Pollution Control Act (33 U.S.C. 1251-1387, as amended).

### **Lacey Act, 16 U.S.C 3371-3378.**

This Act prohibits trade in wildlife, fish and plants have been illegally taken, possessed, transported or sold.

### **Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801-1884.**

This Act governs marine fisheries in Federal waters.

### **Migratory Bird Treaty Act, 16 U.S.C. 703-712.**

The Act prohibits anyone, unless permitted, to pursue, hunt, take, capture, kill, attempt to take, capture or kill, possess, offer for sale, sell, offer to purchase, deliver for shipment, ship, cause to be shipped, deliver for transportation, transport, cause to be transported, carry or cause to be carried by any means whatsoever, receive for shipment, transport of carriage, or export, at any time, or in any manner, any migratory bird, or any part, nest, or egg of such bird.

### **Endangered Species Act, 16 U.S.C. 1531, et seq.**

The Act provides a program for the conservation of threatened and endangered plants and animals and the habitat in which they are found. The Act also prohibits any action that cause a “taking” of any listed species of endangered fish or wildlife. Also, generally prohibited are the import, export, interstate, and foreign commerce of listed species.

## **FEDERAL FUNDS.**

This Agreement relies on federal funds, therefore, the following terms and conditions apply:

### **Prior Approval to Expend Federal Funds to Federal Agency or Employee.**

It is understood and agreed that the Recipient is not authorized to expend any federal funds under this Agreement to a federal agency or employee without the prior written approval of the awarding federal agency.

### **Equal Employment Opportunity.**

Executive Order 11246 of September 24, 1965, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Part 60-1.4). 41 CFR Part 60-1.4 is hereby incorporated by reference.

**Davis-Bacon Act.**

Unless exempt, the Davis-Bacon Act, 40 U.S.C. 3141-3148, as supplemented by Department of Labor regulations at 29 CFR Part 5, is applicable to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000.00 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works. Under this Act, contractors and subcontractors must pay their laborers and mechanics employed under the Agreement no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area. Davis-Bacon Act does not apply if federal funding is solely provided by the American Rescue Plan Act (ARPA).

**Copeland “Anti-Kickback Act”.**

- i. **Recipient.** The Recipient shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 CFR Part 3 as may be applicable, which are incorporated by reference into this Agreement.
- ii. **Subcontracts.** The Recipient or subrecipient/subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subrecipients/subcontractors to include these clauses in any lower tier subcontracts. The Recipient shall be responsible for the compliance by any subrecipient/subcontractor or lower tier subrecipient/subcontractor with all these contract clauses.
- iii. **Breach.** A breach of the Agreement clauses above may be grounds for termination of the Agreement, and for debarment as a contractor and subcontractor as provided in 29 CFR § 5.12.

**Contract Work Hours and Safety Standards Act**

29 CFR 5.5(b) Contract Work Hours and Safety Standards Act is hereby incorporated by reference.

**Rights to Inventions**

If this Agreement is supported by federal funds and meets the definition of “funding agreement” under 37 CFR Part 401.2(a) then the Recipient must comply with all requirements of 37 CFR Part 401.

**Energy Efficiency.**

Mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871) applies.

**Debarment and Suspension Recipient Federal Certification**

- i. This Agreement is a covered transaction for purposes of 2 CFR Part 180 and 2 CFR Part 3000. As such, the Recipient is required to verify that none of the Recipient’s principals (defined at 2 CFR § 180.995) or its affiliates (defined at 2 CFR § 180.905) are excluded (defined at 2 CFR § 180.940) or disqualified (defined at 2 CFR § 180.935).
- ii. The Recipient must comply with 2 CFR Part 180, subpart C and 2 CFR Part 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- iii. This certification is a material representation of fact relied upon by Recipient/Subrecipient. If it is later determined that the Recipient did not comply with 2 CFR Part 180, subpart C and 2 CFR Part

3000, subpart C, in addition to remedies available to Recipient/Subrecipient, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

- iv. The Recipient agrees to comply with the requirements of 2 CFR Part 180, subpart C and 2 CFR Part 3000, subpart C while this offer is valid and throughout the period of any Agreement that may arise from this offer. The Recipient further agrees to include a provision requiring such compliance in its lower tier covered transactions.

### **Byrd Anti-Lobbying Amendment**

Recipients awarded \$100,000 or more in Federal funds shall file the required certification. Recipients shall file the required certification with the Commission's Grant Manager five (5) business days after Agreement execution. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 USC Part 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Recipient who in turn will forward the certification(s) to the Commission.

### **Procurement of Recovered Materials**

- i. In the performance of this Agreement, the Recipient shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—
  - a. Competitively within a timeframe providing for compliance with the Agreement performance schedule;
  - b. Meeting Agreement performance requirements; or
  - c. At a reasonable price.
- ii. Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines.
- iii. The Recipient also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

### **Domestic Preference for Procurements**

- i. As appropriate and to the extent consistent with law, the Recipient should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subcontracts including all contracts for work or products under this Agreement.
- ii. For purposes of this section:

- a. “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- b. “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

**Compliance with Office of Management and Budget Circulars.**

As applicable, Recipient shall comply with the following Office of Management and Budget (OMB) Uniform Guidance (2 CFR 200).

**Drug Free Workplace.**

Pursuant to the Drug-Free Workplace Act of 1988, the Recipient attests and certifies that the Recipient will provide a drug-free workplace compliant with 41 U.S.C. 81.

**American Rescue Plan Act (ARPA) of 2021.**

If this Agreement relies on ARPA federal funds, then the following shall apply:

- i. Recipients shall provide their Unique Entity Identifier (UEI) and any other financial information requested in the [sam.gov](https://sam.gov) financial registration process to the Commission prior to Agreement execution.
- ii. Public Law 117-2, American Rescue Plan Act of 2021, Title XI-Committee of Finance Subtitle M; Section 9901.
- iii. Coronavirus State Fiscal Recovery Fund (SFRF) (31 CFR Part 35).
- iv. Office of Management and Budget (OMB) Uniform Guidance (2 CFR 200).
- v. US Department of Treasury, Compliance and Reporting Guidance State and Local Recovery Funds, as amended.

**Build America, Buy America (BABA) provision of the Infrastructure Investment and Jobs Act (IIJA) of 2021. (117 P.L. 58).**

If federal funds are awarded to be used in this Agreement for any project involving construction, alteration, maintenance, or repair of infrastructure in the United States, and if the project involves infrastructure as defined by §70912(5) of BABA, which includes, but is not limited to roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property; then:

- i. All iron and steel, manufactured products, and construction materials used in the project must be produced in the United States.
- ii. The BABA provision applies to all articles, materials, and supplies consumed in, incorporated into, or affixed to an infrastructure project for federal awards on or after May 14, 2022.

- iii. All subcontractors, successors, or assignees to this Agreement will be held to the same requirements as the original Parties to this Agreement.
- iv. The BABA provision does not apply to tools, equipment, and supplies brought to the construction site and removed at or before completion of the infrastructure project. Nor does the BABA provision apply to equipment and furnishings used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

**Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment**

Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to procure, obtain, extend or renew an agreement that utilizes telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

- i. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
- ii. Telecommunications or video surveillance services provided by such entities or using such equipment.
- iii. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

**AGREEMENT-RELATED PROCUREMENT.**

**PRIDE.**

In accordance with Section 946.515(6), F.S., if a product or service required for the performance of this Contract is certified by or is available from Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE) and has been approved in accordance with Subsection 946.515(2), F.S., the following statement applies:

It is expressly understood and agreed that any articles which are the subject of, or required to carry out, this contract shall be purchased from [PRIDE] in the same manner and under the same procedures set forth in Subsections 946.515(2) and (4), F.S.; and for purposes of this contract the person, firm or other business entity carrying out the provisions of this contract shall be deemed to be substituted for this agency insofar as dealings with such corporation are concerned.

The above clause is not applicable to subcontractors unless otherwise required by law. Additional information about PRIDE and the products it offers is available at <http://www.pride-enterprises.org>.

**Respect of Florida.**

In accordance with Subsection 413.036(3), F.S., if a product or service required for the performance of this Contract is on the procurement list established pursuant to Subsection 413.035(2), F.S., the following statement applies:

It is expressly understood and agreed that any articles that are the subject of, or required to carry out, this contract shall be purchased from a nonprofit agency for the blind or for the severely handicapped that is qualified pursuant to Chapter 413, F.S., in the same manner and under the same procedures set forth in Subsections 413.036(1) and (2), F.S.; and for purposes of this contract, the person, firm or other business entity carrying out the provisions of this contract shall be deemed to be substituted for the state agency insofar as dealings with such qualified nonprofit agency are concerned.

Additional information about the designated nonprofit agency and the products it offers is available at <http://www.respectofflorida.org>.

#### **Procurement of Recycled Products or Materials.**

Contractor agrees to procure any recycled products or materials which are the subject of or are required to carry out this Contract in accordance with Section 403.7065, F.S.

#### **INDEMNIFICATION.**

If the Recipient is a state agency or subdivision, as defined in Subsection 768.28(2), F.S., or as a governmental entity as defined in Subsection 287.012(14), F.S., neither Party indemnifies nor insures the other Party for the other Party's negligence. Recipient is responsible for all personal injury and property damage attributable to the negligent acts or omissions of that party, its officers, employees, volunteers and agents. Nothing contained herein shall be construed or interpreted as denying to any party any remedy or defense available under the laws of the state of Florida, nor as a waiver of sovereign immunity of the state of Florida beyond the waiver provided for in section 768.28, F.S., as amended.

If Recipient is not a state agency or subdivision as defined above, Recipient shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless the State and the Commission, and their officers, agents, and employees, from suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by Recipient, its agents, employees, partners, or subcontractors, provided, however, that Recipient shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the State or the Commission. The Commission reserves the right to select its counsel.

#### **NON-DISCRIMINATION.**

No person, on the grounds of race, color, religion, gender, pregnancy, national origin, age, handicap, or marital status, shall be excluded from participation in, be denied the proceeds or benefits of, or be otherwise subjected to discrimination in performance of this Agreement.

#### **MEDIATION.**

In the event of any claim or dispute arising by or between the Commission and the Recipient, each party shall continue to perform as required under the Agreement, notwithstanding the existence of such claim or dispute, it being acknowledged that time is of the essence. This provision includes, but is not limited to, the obligation to continue to perform under the Agreement notwithstanding disputes as to amounts due for payment hereunder.

Except for any claim, dispute, or matter in question that has been waived by the acceptance of final payment, or that is otherwise barred by the applicable statute of limitations or other provision of law, any claim, dispute, or

other matter in question arising out of, or relating to, the Work or the Agreement or the breach thereof, shall be first submitted to non-binding mediation by a single mediator in Tallahassee, Florida

The party making a claim or dispute shall notify the other in writing of its claim or dispute within ten working days of the event giving rise to the claim or dispute.

- i. Such notice shall give the other party ten working days from receipt of the notice to respond in writing.
- ii. If the party initiating such notice is not satisfied with the response, then it shall invoke this clause initiating non-binding mediation by sending a demand for mediation in writing to the other party within seven (7) days.
- iii. The Parties have two weeks after notice to agree in writing upon a mediator.
- iv. If the Parties cannot agree upon a Florida Supreme Court certified mediator, then the Parties shall request the Chief Judge of the Second Judicial Circuit in Leon County, Florida, to appoint a Florida Supreme Court certified mediator.
  - a. The mediator's fees shall be born equally by the Parties involved in the mediation and shall pay all of its own attorneys' fees and expenses related to the mediation unless otherwise agreed.
  - b. Unless otherwise agreed by the Parties in writing, such mediation shall take place within forty-five (45) days of the appointment of, or agreement to, the mediator if the mediator's schedule so allows.
  - c. The terms of this Agreement and any dispute relating thereto will be governed by the laws of the State of Florida, any litigation will be brought in the state or federal court in and for Tallahassee, Florida, and you agree to submit to the exclusive jurisdiction of the state and federal courts located in and for the Leon County, State of Florida.
  - d. All Parties agree to negotiate in good faith in an effort to settle any dispute. All Parties shall have a representative present at mediation with the authority to settle the case.
- v. Any resolution achieved at mediation shall be set forth in a written settlement agreement.
- vi. The Recipient shall require all the dispute resolution provisions and requirements set out in this Section in each contract it makes with any Subcontractor, material supplier, equipment supplier, or fabricator.
- vii. In no event shall the demand for mediation be made after the date when institution of legal or equitable proceedings based on such claim, dispute, or other matter in question would be barred by the applicable statute of limitations, or otherwise.

Unless otherwise agreed in writing, the Recipient shall carry on the Work and maintain its performance of this Agreement during any claim, dispute, or mediation.

If any matter sought to be mediated by the Commission or the Recipient involves a claim or other matter by or against the Consultant, any Subcontractor, any Separate Contractor, or any other third party, or any such entity is reasonably necessary to be joined in the mediation to permit a full and complete disposition of the dispute submitted hereunder, then the Consultant, Subcontractor, Separate Contractor or third party shall be joined by personal service of the notice demanding mediation.



Such termination of the mediation shall not preclude any party from commencing any judicial proceeding in a court of competent jurisdiction in Leon County, Florida, providing the claims sought to be decided are not otherwise barred.

Any demand for mediation and any answer to such demand must contain a written statement of each claim alleged and the dollar amount in controversy sought in each claim.

Should mediation fail to resolve the claim submitted, the Parties may then proceed to seek applicable remedies at law.

The agreement to mediate set forth in this Section shall apply to, and become part of, any Subcontract, any contract into which these General Conditions are incorporated by reference or otherwise, and the Parties to such contract shall mediate all disputes arising out of, or in any way relating to, that contract or the Project in accordance with the provisions of this Section.

**SEVERABILITY, CHOICE OF LAW, AND CHOICE OF VENUE.**

This Agreement has been delivered in the State of Florida. Florida law governs this Agreement, all agreements arising under or out of this Agreement, and any legal action or other proceeding of any kind designed to resolve a dispute that arises out of or relates to this Agreement. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law. If a court or other tribunal finds any provision of this Agreement unenforceable as written, the unenforceable provision(s) shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision and the remaining provisions of this Agreement. The Parties have selected the Second Judicial Circuit in Leon County, Florida, as the mandatory and exclusive forum for resolving any dispute, in law or equity, that arises out of or relates to the Parties’ transactions. By signing this Agreement, Recipient affirms that Recipient considers the Second Judicial Circuit to be a fair and convenient forum for any legal action or other proceeding of any kind designed to resolve such a dispute. The Recipient will not initiate in any other forum a legal action or other proceeding to which this provision applies.

**JURY TRIAL WAIVER.**

As part of the consideration for this Agreement, the Parties hereby waive trial by jury in any action or proceeding brought by any party against any other party pertaining to any matter whatsoever arising out of or in any way connected with this Agreement, or with the products or services provided under this Agreement, including but not limited to any claim by the Recipient of *quantum meruit*.

**NO THIRD-PARTY RIGHTS.**

The Parties hereto do not intend, nor shall this Agreement be construed, to grant any rights, privileges or interest to any person not a party to this Agreement.

**PROHIBITION OF UNAUTHORIZED ALIENS.**

In accordance with Federal Executive Order 96-236, the Commission shall consider the employment by the Recipient of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationalization Act. Such violation shall be cause for unilateral cancellation of this Agreement if the Recipient knowingly employs unauthorized aliens.

**EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY).****Requirement to Use E-Verify.**

Section 448.095(2) Florida Statute requires the Contractor to: 1.) utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the Contract term; and 2.) include in all subcontracts under this Contract, the requirement that subcontractors performing work or providing services pursuant to this Contract utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the term of the subcontract.

**E-Verify Online.**

E-Verify is an Internet-based system that allows an employer, using information reported on an employee's Form I-9, Employment Eligibility Verification, to determine the eligibility of all new employees hired to work in the United States. The Department of Homeland Security's E-Verify system can be found online at <https://www.e-verify.gov>.

**Enrollment in E-Verify.**

As a condition precedent to entering a Contract with the Commission, Contractors and Subcontractors shall register with and use the E-Verify system. Failure to do so shall result in the Contract not being issued, or if discovered after issuance, termination of the Contract.

**E-Verify Recordkeeping.**

The Contractor further agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including participation by its subcontractors as provided above, and to make such records available to the Commission or other authorized state entity consistent with the terms of the Contractor's enrollment in the program. This includes maintaining a copy of proof of the Contractor's and subcontractors' enrollment in the E-Verify Program. If a contractor enters into a contract with a subcontractor, the subcontractor must provide the contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. The contractor shall maintain a copy of such affidavit for the duration of the contract.

**Employment Eligibility Verification & Compliance.**

Compliance with the terms of the Employment Eligibility Verification provision is made an express condition of this Contract and the Commission may treat a failure to comply as a material breach of the Agreement. If the Commission terminates the Contract pursuant to Section 448.095(2)(c) Florida Statute, the contractor may not be awarded a public contract for at least 1 year after the date on which the contract was terminated and the Contractor is liable for any additional costs incurred by The Commission as a result of the termination of this Contract.

**FORCE MAJEURE AND NOTICE OF DELAY FROM FORCE MAJEURE.**

Neither Party shall be liable to the other for any delay or failure to perform under this Agreement if such delay or failure is neither the fault nor the negligence of the Party or its employees or agents and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Party's control, or for any of the foregoing that affects subcontractors or suppliers if no alternate source of supply is available. However, in the event of delay from the foregoing causes, the Party shall take all reasonable measures to mitigate any and all resulting delay or disruption in the Party's performance obligation under this Agreement. If

the delay is excusable under this paragraph, the delay will not result in any additional charge or cost under the Agreement to either Party. In the case of any delay Recipient believes is excusable under this paragraph, Recipient shall notify the Commission's Grant Manager in writing of the delay or potential delay and describe the cause of the delay either: (1) within ten (10) calendar days after the cause that creates or will create the delay first arose, if Recipient could reasonably foresee that a delay could occur as a result; or (2) within five (5) calendar days after the date Recipient first had reason to believe that a delay could result, if the delay is not reasonably foreseeable. **THE FOREGOING SHALL CONSTITUTE THE RECIPIENT'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. The Commission, in its sole discretion, will determine if the delay is excusable under this paragraph and will notify Recipient of its decision in writing. No claim for damages, other than for an extension of time, shall be asserted against the Commission. Recipient shall not be entitled to an increase in the Agreement price or payment of any kind from the Commission for direct, indirect, consequential, impact, or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist, Recipient shall perform at no increased cost, unless the Commission determines, in its sole discretion, that the delay will significantly impair the value of the Agreement to the Commission or the State, in which case, the Commission may do any or all of the following: (1) accept allocated performance or deliveries from Recipient, provided that Recipient grants preferential treatment to the Commission with respect to products or services subjected to allocation; (2) purchase from other sources (without recourse to and by Recipient for the related costs and expenses) to replace all or part of the products or services that are the subject of the delay, which purchases may be deducted from the Agreement quantity; or (3) terminate the Agreement in whole or in part.

#### **TIME IS OF THE ESSENCE.**

Time is of the essence regarding the performance obligations set forth in this Agreement. Any additional deadlines for performance for Recipient's obligation to timely provide deliverables under this Agreement including but not limited to timely submittal of reports, are contained in Attachment A.

#### **REPORTING REQUIREMENTS CONCERNING EXECUTIVE ORDER 20-44.**

This term does not apply to governmental entities.

If this Agreement is a sole-source, public-private agreement or if the Recipient, through this Agreement with the State, annually receives 50% or more of their budget from the State or from a combination of State and Federal funds, the Recipient shall provide an annual report (Executive Order 20-44 Attestation Form), including the most recent IRS Form 990, detailing the total compensation for the entities' executive leadership teams. Total compensation shall include salary, bonuses, cashed-in leave, cash equivalents, severance pay, retirement benefits, deferred compensation, real-property gifts, and any other payout.

The Recipient must also inform the Commission's Grant Manager of any changes in total executive compensation between the annual reports. All compensation reports must indicate what percent of compensation comes directly from the State or Federal allocations to the Recipient.

#### **MEDIA REQUESTS.**

Recipients shall refer all requests by the media or public relations personnel to the Commission's Grant Manager. Recipients must submit a written request for permission before consulting with the media and the Commission will provide consultation and talking points. Recipients will not issue news releases, respond to questions, or

make statements on behalf of the Commission or its partners without prior direction and the Commission's written approval. Production and filming requests related to this Agreement shall be processed through the Commission only.

**USE OF SMALL UNMANNED AIRCRAFT SYSTEMS**

Unless superseded or otherwise further described in Attachments A, if the Recipient intends to use a small unmanned aircraft system (sUAS) at any time throughout the duration of the Agreement, the Recipient shall request approval from the Commission, in writing, prior to use. Upon request by the Commission, the Recipient shall provide all required documentation, such as license or certification, flight plans, and registrations. The Commission will notify the Recipient in writing of the approval or rejection of the request. If approved, the Recipient will be provided with the Commission's policies, and is responsible and liable for adhering to any and all rules and regulations, including the Commissions policies, applicable to operating sUAS.

**ENTIRE AGREEMENT.**


This Agreement with all incorporated attachments and exhibits represents the entire Agreement of the Parties. Any alterations, variations, changes, modifications or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing, and duly signed by each of the Parties hereto, unless otherwise provided herein. In the event of conflict, the following order of precedence shall prevail: this Agreement and its attachments, the terms of the solicitation and the Recipient's response to the solicitation.

**REMAINDER OF THE PAGE INTENTIONALLY LEFT BLANK**

**SIGNATURE PAGE TO FOLLOW**

**SIGNATURES**

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be executed through their duly authorized signatories on the day and year last written below.

<b>RECIPIENT EXECUTION SIGNATURE</b>	<b>COMMISSION EXECUTION SIGNATURE</b>
<b>City of Clearwater</b>	<b>Florida Fish and Wildlife Conservation Commission</b>
	
Recipient Signature	Executive Director (or Designee) Signature
Jennifer Poirrier	
Print Name	Print Name
City Manager	
Title	Title
01/15/2025	
Date	Date

**ATTACHMENTS**

Attachments in this Agreement include the following:

- Attachment A, Scope of Work
- Attachment B, Requirements of the Federal and Florida Single Audit Acts
- Attachment C, Monitoring Guidelines
- Attachment D, Notice of Grant Agreement
- Attachment E, Reporting Forms
- Attachment F, Federal Funding Accountability and Transparency Act
- Attachment G, 50 CFR Part 80
- Attachment H, Notice of Award
- Attachment I, Federally Required Contract Provisions
- Attachment J, Federal Certification Regarding Lobbying

## 1. PROJECT DESCRIPTION

- A. Purpose and Background:** City of Clearwater (Recipient) will use grant funds to reconstruct the existing Clearwater Beach Marina's aging transient recreational vessel facility including transient and fuel dock replacement and the addition of a 265 linear foot segment of side-tie dockage.
- B. Project Benefits:** The purpose of the project is to provide the boating public with waterfront access in an area with high and increasing demand for recreation and tourism.
- C. Type of Agreement:** This is a cost reimbursement agreement in accordance with Cost Reimbursement Contract Payment Requirements Section 4(G) of the Agreement. Requirements are outlined in the Department of Financial Services, Bureau of Accounting and Auditing, *Reference Guide for State Expenditures*.
- D. Term of Agreement:** The term of the Agreement shall begin upon execution by the last Party to sign and shall remain in effect until May 31, 2027. Prior to the end of term, Recipient shall complete the tasks and provide the deliverables described in this Scope of Work. **All activities must be completed by May 31, 2027.**

## 2. PROJECT DELIVERABLES

Total payments for all deliverables will not exceed the maximum grant award amount of \$1,706,760.

- A. Deliverable 1:** The Recipient will, through contracted services, demolish existing docks and prepare the site for construction.

### **Deliverable 1 Tasks:**

- Contractor equipment Mobilization and Demobilization.
- Demolish existing transient/fuel dock(s)
  - o Removal and disposition of all debris
  - o Marina utility disconnection and removal

**Compensation:** Total payment for this deliverable will not exceed \$300,000.

**Minimum Performance:** Minimum performance will be the completion of all Tasks listed above and the completion of all requirements in Section 4 - Performance. The Recipient shall provide proof of services rendered; invoices and proof of payment; and engineer certification or other records of percentage of completion. Additionally, Recipient will provide load tickets for disposed material if requesting reimbursement for disposition.

**Documentation:** Documentation includes an attestation of activities or services rendered and proof of payment. See FWC Cost Reimbursement Contract Payment Requirements, Section 4(G) of the Agreement, for additional details on supporting documentation.

- B. Deliverable 2:** The Recipient will, through contracted services, procure a new transient/fuel dock with seventeen (17) dedicated slips, 265 linear feet of flexible side tie dockage, and six (6) fuel slips with the supporting infrastructure and electrical pedestals.

**Deliverable 2 Tasks:**

- Procure an ADA wheelchair accessible floating dock (10,700 SF) anchored by steel pipe guide piles with HDPE protective sleeves for no fewer than (17) boat slips, 265 linear feet of flexible side tie-dockage, and (6) fuel dock slips for public boating access.
- Procure an (1) ADA wheelchair compliant articulating aluminum gangway (55' long by 4' wide)
- Procure utility pedestals and electrical distribution equipment for no fewer than twenty-four (24) vessels – (17) at floating dock slips and (7) at side tie dockage.
- Construct no less than six (6) fuel dock slips for public boating access
  - o CAUTION: DO NOT sell fuel from these pumps until this grant is closed. Proceeds are considered Program Income and will reduce the federal grant funds received.

**Compensation:** Total payment for this deliverable will not exceed \$1,406,760.

**Minimum Performance:** Minimum performance will be the completion of all Tasks listed above and the completion of all requirements in Section 4 - Performance. The Recipient shall provide proof of services rendered; invoices and proof of payment; and engineer certification or other records of percentage of completion.

**Documentation:** Documentation includes an attestation of activities or services rendered and proof of payment. See FWC Cost Reimbursement Contract Payment Requirements, Section 4(G) of the Agreement, for additional details on supporting documentation.

### 3. FINANCIAL CONSEQUENCES

- A. Pursuant to 215.971(1)(c), Florida Statutes, the Commission will withhold payment of Program funds for failure to complete the Project as described herein within the timeframe allowed, or for failure to correct any Project deficiencies, as noted in the final Project inspection. Only those deliverables completed, or items purchased and received in accordance with the scope of work and within the agreement period of performance will be eligible for reimbursement. Failure of the Recipient to provide the deliverable shall be considered non-compliance with terms and payment will not be processed.
- B. In addition to nonpayment for tasks which are not satisfactorily or timely completed, or for failure to correct any project deficiencies, as noted in the final project inspection, the Commission will impose a financial consequence of twenty-five percent (25%) of the total contract amount for failure to complete any tasks satisfactorily or timely, or for failure to correct any project deficiencies, as noted in the final project inspection. The final project inspection will be done by a Commission employee verifying that the project was completed according to the project scope of work.

- C. Failure of Recipient to have all receipts and evidence of project performance reflecting costs were incurred within the period of performance may jeopardize payment of funds to the Recipient per the Agreement.
- D. Following the end of the term of this Agreement, the Recipient shall repay any Program funds received for the Project for failure to maintain the Project site as a public boating access facility according to the terms and conditions herein for a period of twenty (20) years. This section shall survive any Agreement termination.

#### 4. PERFORMANCE

- A. **Permit Requirements:** The Recipient agrees to adhere to all federal, state, county and city permit requirements of the Project.
- B. **Procurement:** The Recipient shall procure goods and services through a competitive solicitation process in accordance with Chapter 287, Florida Statutes. The Recipient shall forward one copy of any solicitation to the Commission's grant manager for review prior to soliciting for quotations or commencing any work. The Recipient shall forward one copy of the bid tabulation, or similar list of responses to the solicitation, along with the award recommendation to the Commission's grant manager, to retain in their own records.
- C. **Engineering:** If applicable, all engineering must be completed by a professional engineer or architect registered in the State of Florida. All work must meet or exceed minimum design standards and guidelines established by all applicable local, state and federal laws. The Recipient agrees to adhere to all federal, state, county and city requirements of the Project and all requirements of the 2010 Standards issued pursuant to the Americans with Disabilities Act, 1003 – Recreational Boating Facilities. Standard 235.3 for Accessible Design requires that where boarding piers are provided at boat launch ramps, no fewer than one must be accessible. When compliance with ADA wheelchair accessibility requirements is in question with regard to reimbursable costs under this Agreement, the Commission may engage a third-party engineer at its own expense to review the design and report to the Commission concerning compliance. The Commission's determination based on this review will be final.
- D. **Construction:** If applicable, the Contractor shall be certified by the Division of Construction Industry Licensing Board of the Florida Department of Business and Professional Regulation for the duration of this contract and shall provide evidence of such certification upon request.
- E. **Commencement of Work:** The Recipient shall commence work on the Project within 90 days of receiving Notice to Proceed following execution of the Agreement. Failure by the Recipient to begin work shall constitute a breach of the Agreement and may result in termination of the Agreement by the Commission. No in-water or ground disturbing work may begin prior to written notification by the FWC Grant Manager that compliance reviews are complete, approved by U.S. Fish & Wildlife Service (USFWS), and notice to proceed has been given to FWC by USFWS. Page 3 of Attachment H, Notice of Award issued by the USFWS states:

*This grant award is conditionally obligated that NO CONSTRUCTION ACTIVITIES will take*



*place until all required compliance documents have been received, reviewed, and approved by our office.*

*Recipients and sub-recipients of Federal grants and cooperative agreement awards must comply with the requirements of the National Environmental Policy Act (NEPA), Section 7 of Endangered Species Act (ESA), and Section 106 of the National Historic Preservation Act (NHPA).*

- F. Performance Criteria:** The Recipient shall complete the Project as described in this Scope of Work; the Sport Fish Restoration Boating Access Grant Program (SFR) Application 22-203; incorporated herein by reference; and the resulting grant award from the US Fish and Wildlife Service, F24AF01841, incorporated herein as Attachment H. Failure to complete the Project in a satisfactory manner could result in financial consequences as specified herein.
- G. Sport Fish Restoration Rule:** The Recipient agrees to construct, operate and maintain the Project according to all provisions of Attachment G, Financial Assistance: Wildlife Restoration, Sport Fish Restoration, Hunter Education and Safety Final rule, 50 CFR Part 80, attached and made part of this Agreement.

The Recipient further agrees to comply with all other applicable federal, state, and local rules and regulations in providing services to the Commission under this Agreement. The Recipient further agrees to include this provision in all subcontracts issued as a result of this Agreement. This section survives any Agreement termination.

- H. Certificate of Completion:** Within thirty (30) calendar days following completion of all Project deliverables, the Recipient shall sign and submit to the Commission's grant manager, a Certification of Completion Statement, attached hereto and made a part hereof as Attachment E, Form 5 which certifies the Project was completed in accordance with the provisions herein. Final photographs shall be submitted with the Certification of Completion Statement, Attachment E, Form 5.
- I. Site Dedication:** For construction grants, but not for grants which involve only design, engineering, and permitting, or for grants for the installation of waterway markers or other projects on sovereign submerged lands, the Recipient agrees to dedicate the project site as a boat access facility for the use and benefit of the public as a condition of receiving funds under this Agreement. The Notice of Grant Agreement Form (Site Dedication) is attached hereto and made a part hereof as Attachment D. If required, the Recipient shall execute and record this document in the official records of the County where the Project is located. As proof of the site dedication a copy of the recorded document shall be submitted to the Commission in addition to the Certificate of Completion, Attachment E, Form 5.

Final reimbursement or 25% of the award, whichever is greater, shall be withheld until receipt of Site Dedication AND Certificate of Completion. Following this initial site dedication, the project site shall remain a public boat access facility for a period not less than twenty (20) years following the date the Site Dedication was recorded. Land under control other than by ownership by the Recipient (i.e., lease, management agreement, cooperative agreement, inter-local agreement, or other similar instrument) shall be managed by the Recipient as a public boat access facility for the entirety of this site dedication period surviving the Agreement termination. Recipient agrees to

secure all authorizations necessary for continuing use and management of the property for the duration of this site dedication period. Title to all improvements shall be retained by the Recipient upon final payment by the Commission.

The Recipient shall repay all funds received for the Project under this Agreement for failure to maintain the Project site as a public boating access facility according to the terms and conditions herein for the duration of the site dedication period. Should the Recipient convert all or any part of the Project to other than Commission approved uses prior to the end of this site dedication period, or should the Recipient lose authorization to use and manage the property on which the Project is completed before the end of the site dedication period, the Recipient shall replace the area, facilities, resource or site at its own expense with a project acceptable to the Commission of comparable scope and quality. In the event the Project is converted to use for other purposes, or the Recipient loses authorization to use and manage the property on which the Project is completed within the site dedication period and Recipient has not replaced the Project with a like project acceptable to the Commission, the Recipient agrees to return to the Commission all funds tendered under this Agreement for the original Project.

Site dedication, the site dedication period, and all terms of this section survive any Agreement termination. If mutually agreed upon by both parties in writing the site dedication may be rescinded. The Commission shall waive the site dedication requirement if no program funds were dispersed.

- J. Acknowledgement:** Upon completion of the Project, and prior to the reimbursement of funds, the Recipient, at its expense, shall purchase, erect and maintain a permanent sign, not less than three (3) feet by four (4) feet in size, displaying the Commission's logo acknowledging the Commission and the USFWS Sport Fish Restoration Program as a funding source for the Project. Any other form of acknowledgement must be approved by the Commission's grant manager. Such acknowledgement shall be maintained for the duration of the site dedication period described in Section I, Site Dedication, above in Section 4, Performance. Should the sign or acknowledgement be damaged, removed or destroyed, the Recipient shall, at its expense, replace it within ninety (90) days. Should the Recipient fail to maintain such acknowledgement other than the ninety (90) day replacement term, the Recipient agrees to return to the Commission all funds tendered under this Agreement for the original Project. The Recipient shall provide a draft copy of the acknowledgement sign for approval by the Commission prior to displaying on site. Language to place on the sign shall include: This Project was funded by the Florida Fish and Wildlife Conservation Commission through the Sport Fish Restoration Grant Program. This section survives any Agreement termination.
- K. Directional Signs:** Prior to the reimbursement of funds, the Recipient, at its expense, shall purchase, erect and maintain directional signs, approved by the Commission, on main public highways to direct public users to each boating facility funded through the Program regardless of which portion of the Project the Program funded. The Recipient agrees to provide and maintain such signs at its expense for the entirety of the site dedication period described in Section I, Site Dedication, above in Section 4, Performance. Should the signs be damaged, removed or destroyed, the Recipient shall, at its expense, replace them within ninety (90) days. Should the Recipient fail to erect and maintain such signs other than the ninety (90) day replacement term, the Recipient agrees to return to the Commission all funds tendered under this Agreement for the original Project. This requirement can be waived by the Commission's Grant manager, in writing, if the Recipient receives a written denial from the Florida Department of Transportation for the installation of the

signs. This section survives any Agreement termination.

**5. BUDGET**

**A. Project Budget:** For satisfactory completion of the tasks and deliverables described in this Scope of Work, by the Recipient under the terms of this Agreement, the Commission shall pay the Recipient on a cost reimbursement basis in an amount not to exceed \$1,706,760. All amounts noted in the budget are estimates based on preliminary quotes or prior project activities from the application amount. Deviations from this budget that exceed ten percent (10%) of the total amount in any budget category/deliverable must be approved by the Commission grant manager in writing prior to the deviation. The Recipient shall be reimbursed only for budgeted expenses incurred during the Agreement Period that are directly related to the Project.

Deliverable Number	Category	TOTAL COST	Non-Federal Share (Match)	Federal Share
	Administrative (incl. Project Management)	\$0	\$0	\$0
	Land, Structures, Rights-of-Way, etc.	\$0	\$0	\$0
	Relocation expenses and payments	\$0	\$0	\$0
	Architectural and engineering fees	\$0	\$0	\$0
	Other architectural and engineering fees	\$0	\$0	\$
	Project inspection fees	\$0	\$0	\$0
	Site work	\$0	\$0	\$0
1	Demolition and removal	\$500,000	\$200,000	\$300,000
2	Construction	\$2,344,600	\$937,840	\$1,406,760
	Equipment	\$0	\$0	\$0
	Miscellaneous:	\$0	\$0	\$0
	Contingencies (allowed at the time of the grant)	\$0	\$0	\$0
	<b>TOTAL</b>	<b>\$2,844,600</b>	<b>\$1,137,840</b>	<b>\$1,706,760</b>
	<b>Percentage</b>	<b>100%</b>	<b>40%</b>	<b>60%</b>

**B. Cost Share:** The Recipient agrees to provide non-federal cash matching funds equal to 40% of the total cost for the Project as described in the scope of work. The total compensation by the Commission shall be \$1,706,760 or 60% of the total cost, whichever is less.

**C. Pre-Award Costs:** No Pre-award costs are requested.

**6. COMPENSATION AND PAYMENT**

**A. Fee Schedule:** This section is not applicable.

**B. Travel Expenses:** No travel expenses are authorized under the terms of this Agreement.

**C. Cost Reimbursement:** This is a cost reimbursement agreement. The total approved estimated project cost for the Project is \$2,844,600. The Commission agrees to reimburse the Recipient for an amount not to exceed \$1,706,760 or 60% of the total cost, whichever is less, for satisfactory

completion by the Recipient of the Project. The Recipient agrees to provide a minimum of \$1,137,840 or 40% toward completion of the Project and shall be responsible for any additional costs that exceed the total approved estimated project cost for the Project.

- D. Invoice Schedule and Payment:** Invoices may be submitted upon the completion of at least one deliverable listed in the scope of work. The Commission shall have up to 30-days to inspect and approve the Project's deliverables once reported complete by the Recipient. If there are deficiencies noted in the Project inspection, these shall be corrected by the Recipient prior to payment by the Commission. The Commission shall restrict any or all payment of funds pending correction of such deficiencies.

Within thirty (30) days of completion of all Project deliverables, the Recipient shall report the Project complete by submitting all required documentation for reimbursement and Close-out. **Final payment shall be contingent upon the Commission's Grant manager receiving and accepting the:**

- **Final Request for Reimbursement (Attachment E, Form 2) and supporting documentation,**
- **Certification of Completion Form (Attachment E, Form 5) with required photos,**
- **Close-Out Report (Attachment E, Form 6),**
- **FWC final inspection of the Project, and**
- **Recorded Notice of Grant Agreement (Attachment D) reflecting site dedication, if required, as described herein.**

Final reimbursement or 25% of award, whichever is greater, shall be withheld until receipt and acceptance of all required documents.

- E. Forms and Documentation:** After receiving acceptance of deliverable completion from the Commission's Grant manager, the Recipient may submit a Reimbursement Request, Attachment E, Form 2.

Recipients shall submit a Detail of Claims, Attachment E, Form 3 for each deliverable requested for reimbursement. Reimbursement forms and supporting documentation must clearly identify the dates of services, a description of the specific Agreement deliverable(s) provided during the reporting period, an itemized list of expenditures, budget category of each expenditure, the payment amount requested as match or grant reimbursement, the Commission's Agreement Number and the Recipient's Federal Employer Identification (FEID) Number.

The Recipient must submit and maintain original supporting documentation for all funds expended and received under this Agreement in sufficient detail for proper pre- and post-audit and to verify work performed was in accordance with the deliverable(s) and not eligible for payment under any other state or federal funding source. Supporting documentation includes, but is not limited to, quotes, procurement documents, purchase orders, original receipts, invoices, cancelled checks or EFT records, bank statements or copies of general ledgers. See FWC Cost Reimbursement Contract Payment Requirements for additional details on supporting documentation which is Section 4(G) of the Agreement.

The Commission's grant manager shall have up to ten (10) days to review and approve the invoice for payment. Any errors or insufficient supporting documentation included with the invoice will delay payment and the thirty (30) days to review by the Commission may begin again.

**7. MONITORING SCHEDULE**

- A. Compliance Monitoring and Corrective Actions:** The Commission will monitor the Recipient’s service delivery to determine if the Recipient has achieved the required level of performance. For additional information see Attachment C Monitoring Guidelines. If the Commission at its sole discretion determines that the Recipient failed to meet any of the Terms and Conditions of this Agreement, the Recipient will be sent a formal written notice within thirty (30) days. The Recipient shall correct all identified deficiencies within forty-five (45) days of notice or submit a Corrective Action Plan if additional time is required. Failure to meet 100% compliance with all of the Terms and Conditions of this Agreement or failure to correct the deficiencies identified in the notice within the time frame specified may result in delays in payment or termination of this Agreement in accordance with the Termination section.
  
- B. Site Inspections:** The Commission may inspect the Project site prior to and, if applicable, during the construction of the Project. The Recipient shall notify the Commission’s grant manager when the Project has reached substantial completion so that inspection may occur in a timeframe allowing for the timely submission and processing of the final invoice. The Commission’s grant manager, or designee, shall inspect the work accomplished on the Project and, if deemed complete and in compliance with the terms of the Agreement, approve the request for reimbursement.

The Recipient shall allow unencumbered access to the Project site to the Commission, its employees or agent for the duration of the Agreement and for the duration of the site dedication period described in Section I, Site Dedication, above in Section 4, Performance for the purpose of site visit or inspection to verify the facility is being maintained, in operation and is open and available to the public. As part of the inspection, the Commission may request maintenance and use information from the Recipient to validate the condition of the facility. This section shall survive any Agreement termination.

- C. Project Maintenance:** The Recipient shall provide and be responsible for any and all costs associated with the ordinary and routine operations and maintenance of the project site, including any and all personnel, equipment or service and supplies costs beyond the costs approved for reimbursement in this Agreement for the duration of the site dedication period described in Section I, Site Dedication, above in Section 4, Performance. This section shall survive any Agreement termination.
  
- D. Project Progress Reports:** Starting the first quarter after the date the Agreement is executed, the Recipient shall submit to the Commission, on a quarterly basis, Quarterly Reports outlining the progress of the Project (financial and programmatic), identifying any problems that may have arisen, and actions taken to correct such problems. Such reports shall be submitted on the Quarterly Report Forms attached hereto and made a part hereof as Attachment E, Form 1A & 1B. Progress reports are required until the Certification of Completion is submitted, even if the work is complete. Reports are due to the Commission’s grant manager according to the following schedule:

<u>Reporting Period</u>	<u>Report due by:</u>
January through March	April 15 <sup>th</sup>
April through June	July 15 <sup>th</sup>
July through September	October 15 <sup>th</sup>
October through December	January 15 <sup>th</sup>

**E. Annual Reports:** Following completion of a Construction Project, but not a project that involves only design, engineering, and permitting, or for grants for the installation of waterway markers or other projects on sovereign submerged lands, the Recipient shall submit to the Commission an annual report on June 30<sup>th</sup> of each year until the end of the site dedication period described in Section I, Site Dedication, above in Section 4, Performance. The Post Award Use and Access Annual Report Form attached hereto and made a part hereof as Attachment E, Form 7 shall be used to fulfill this annual requirement and shall be sent electronically to [BIGP@MyFWC.com](mailto:BIGP@MyFWC.com) or by mail to Attn: BIGP Administrator, FWC, 620 S. Meridian St., Tallahassee, FL 32399. This annual report shall include a description of the condition of any facilities funded with Program funds including any major repairs to the facilities; the amount of revenue collected from any permits or fees for the use of the facilities; and an estimate of the number of users of the facilities. Should the Recipient fail to complete and submit these annual reports, the Recipient agrees to return to the Commission all funds tendered under this Agreement for the original Project. This section survives any Agreement termination.

## **8. INTELLECTUAL PROPERTY RIGHTS**

No additional requirements. Refer to Section 12 of the Agreement.

## **9. SUBCONTRACTS**

Subcontractors shall be reported to the Commission's Grant manager on the Subcontractor List, Attachment E, Form 8 prior to commencing work. Recipients shall additionally submit a No Conflict of Interest statement for each subcontractor to the Commission's Grant manager. Refer to Section 14 of the Agreement.

## **10. INSURANCE**

No additional requirements. Refer to Section 16 of the Agreement.

## **11. SECURITY AND CONFIDENTIALITY**

No additional requirements. Refer to Section 20 of the Agreement.

## **12. RECORD KEEPING REQUIREMENTS**

Records shall be maintained for ten (10) years following the completion of the Project. Completion of the Project has occurred when all reporting requirements are satisfied, and final payment has been received by the Recipient. Refer to Section 21 of the Agreement.

## **13. NON-EXPENDABLE PROPERTY**

The Recipient is not authorized to use funds provided herein for the purchase of any nonexpendable equipment or personal property valued at \$1,000 or more for performance under this Agreement.

## **14. PURCHASE OR IMPROVEMENT OF REAL PROPERTY**

Refer to Section I, Site Dedication, above in Section 4, Performance.

**15. SPECIAL PROVISIONS FOR CONSTRUCTION CONTRACTS**

- A. Fees:** The Commission reserves the right to review and approve any and all fees proposed for grant project sites, funded in whole or in part by this Program, for the term of the Agreement as well as the term of the site dedication period described in Section I, Site Dedication, above in Section 4, Performance to ensure that excess collection does not occur and that funds collected are not reallocated or diverted to any non-boating access related purpose. This section survives any Agreement termination.
- B. Drug-Free Workplace Requirement for Construction Contractors:** Pursuant to Section 440.102(15), F.S., any construction contractor regulated under Parts I and II of Chapter 489, F.S., who contracts to perform construction work under a state contract shall implement a drug-free workplace.
- C. Contractor Eligibility:** All contractors shall be certified by the Division of Construction Industry Licensing Board of the Florida Department of Business and Professional Regulation for the duration of this Agreement and shall provide evidence of such certification to the Commission upon request.

(Remainder of page left blank intentionally.)

**Attachment B**  
**AUDIT REQUIREMENTS**

The administration of resources awarded by the Florida Fish and Wildlife Conservation Commission (Commission) to the Subrecipient may be subject to audits and/or monitoring by the Commission as described in Part II of this attachment regarding State funded activities. If this Agreement includes a Federal award, then Subrecipient will also be subject to the Federal provisions cited in Part I. If this Agreement includes both State and Federal funds, then all provisions apply.

**MONITORING**

In addition to reviews of audits conducted in accordance with Sections 200.500-200.521, Uniform Guidance: Cost Principles, Audit, and Administrative Requirements for Federal Awards (2 CFR 200), as revised, hereinafter “OMB Uniform Guidance” and Section 215.97, F.S., as revised (see “AUDITS” below), the Commission may conduct or arrange for monitoring of activities of the Contractor. Such monitoring procedures may include, but not be limited to, on-site visits by the Commission staff or contracted consultants, limited scope audits as defined by Section 200.331, OMB Uniform Guidance and/or other procedures. By entering into this Agreement, the Subrecipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Commission. The Subrecipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Florida Department of Financial Services or the Florida Auditor General.

**AUDITS**

**PART I: FEDERALLY FUNDED.** If this Agreement includes a Federal award, then the following provisions apply:

- A. This part is applicable if the Subrecipient is a State or local government or a non-profit organization as defined in Sections 200.90, 200.64, or 200.70, respectively, OMB Uniform Guidance.
- B. In the event that the Subrecipient expends **\$500,000.00 (\$750,000.00** for fiscal years beginning on or after December 26, 2014) or more in Federal awards in its fiscal year, the Subrecipient must have a single or program-specific audit conducted in accordance with the provisions of the Federal Single Audit Act of 1996 and Sections 200.500-200.521, OMB Uniform Guidance. EXHIBIT 1 to this Attachment indicates Federal resources awarded through the Commission by this Agreement. In determining the Federal awards expended in its fiscal year, the Subrecipient shall consider all sources of Federal awards, including Federal resources received from the Commission. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by Sections 200.500-200.521, OMB Uniform Guidance. An audit of the Subrecipient conducted by the Auditor General in the OMB Uniform Guidance, will meet the requirements of this part.
- C. In connection with the audit requirements addressed in Part I, paragraph A. herein, the Subrecipient shall fulfill the requirements relative to auditee responsibilities as provided in Section 200.508, OMB Uniform Guidance. This includes, but is not limited to, preparation of financial statements, a schedule of expenditure of Federal awards, a summary schedule of prior audit findings, and a corrective action plan.
- D. If the Subrecipient expends less than **\$500,000.00 (\$750,000.00** for fiscal years beginning on or after December 26, 2014) in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of Sections 200.500-200.521, OMB Uniform Guidance, is not required. In the event that the Subrecipient expends less than **\$500,000.00 (\$750,000.00** for fiscal years beginning on or after



December 26, 2014) in Federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of Sections 200.500-200.521, OMB Uniform Guidance, the cost of the audit must be paid from non-Federal resources (i.e., the cost of such an audit must be paid from Subrecipient resources obtained from other than Federal entities).

- E.** Such audits shall cover the entire Subrecipient's organization for the organization's fiscal year. Compliance findings related to agreements with the Commission shall be based on the agreement requirements, including any rules, regulations, or statutes referenced in the Agreement. The financial statements shall disclose whether or not the matching requirement was met for each applicable agreement. All questioned costs and liabilities due to the Commission shall be fully disclosed in the audit report with reference to the Commission agreement involved. Additionally, the results from the Commission's annual financial monitoring reports must be included in the audit procedures and the Sections 200.500-200.521, OMB Uniform Guidance audit reports.
- F.** If not otherwise disclosed as required by Section 200.510, OMB Uniform Guidance, the schedule of expenditures of Federal awards shall identify expenditures by contract number for each agreement with the Commission in effect during the audit period.
- G.** If the Subrecipient expends less than **\$500,000.00** in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of Sections 200.500-200.521, OMB Uniform Guidance, is not required. In the event that the Subrecipient expends less than **\$500,000.00** in Federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of Sections 200.500-200.521, OMB Uniform Guidance, the cost of the audit must be paid from non-Federal resources (*i.e.*, the cost of such an audit must be paid from the Subrecipient's resources obtained from other-than Federal entities).
- H.** A web site that provides links to several Federal Single Audit Act resources can be found at: <http://harvester.census.gov/sac/sainfo.html>

**PART II: STATE FUNDED.** If this Agreement includes State funding, then the following provisions apply:

This part is applicable if the Subrecipient is a non-state entity as defined by Section 215.97, F.S., (the Florida Single Audit Act).

- A.** In the event that the Subrecipient expends a total amount of state financial assistance equal to or in excess of **\$750,000.00** (**\$500,000.00** in fiscal years prior to July 1, 2016) in any fiscal year of such Subrecipient, the Subrecipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, F.S.; applicable rules of the Executive Office of the Governor and the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this Attachment indicates state financial assistance awarded through the Commission by this Agreement. In determining the state financial assistance expended in its fiscal year, the Subrecipient shall consider all sources of state financial assistance, including state financial assistance received from the Commission, other state agencies, and other non-state entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a non-state entity for Federal program matching requirements.
- B.** In connection with the audit requirements addressed in Part II, paragraph A herein, the Subrecipient shall ensure that the audit complies with the requirements of Section 215.97(7), F.S. This includes submission of a financial reporting package as defined by Section 215.97(2)(d), F.S., and Chapters

10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

- C. If the Subrecipient expends less than **\$750,000.00 (\$500,000.00** in fiscal years prior to July 1, 2016) in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of section 215.97, F.S., is not required. In the event that the Subrecipient expends less than **\$750,000.00 (\$500,000.00** in fiscal years prior to July 1, 2016) in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of section 215.97, F.S., the cost of the audit must be paid from the non-state entity's resources (*i.e.*, the cost of such an audit must be paid from the Subrecipient's resources obtained from other-than State entities).
- D. Additional information regarding the Florida Single Audit Act can be found at:  
<https://apps.fldfs.com/fsaa/>.
- E. Subrecipient shall provide a copy of any audit conducted pursuant to the above requirements directly to the following address:

**Office of Inspector General  
Florida Fish and Wildlife Conservation Commission  
Bryant Building  
620 S. Meridian St.  
Tallahassee, FL 32399-1600**

### **PART III: REPORT SUBMISSION**

- A. Copies of reporting packages, to include any management letter issued by the auditor, for audits conducted in accordance with Sections 200.500-200.521, OMB Uniform Guidance, and required by Part I of this Attachment shall be submitted by or on behalf of the Subrecipient directly to each of the following at the address indicated:

- 1. The Commission at the following address:

**Office of Inspector General  
Florida Fish and Wildlife Conservation Commission  
Bryant Building  
620 S. Meridian St.  
Tallahassee, FL 32399-1600**

- 2. The Federal Audit Clearinghouse designated in Section 200.512, OMB Uniform Guidance (the reporting package required by Section 200.512, OMB Uniform Guidance, should be submitted to the Federal Audit Clearinghouse):

**Federal Audit Clearinghouse  
Bureau of the Census  
1201 East 10<sup>th</sup> Street  
Jeffersonville, IN 47132**

- 3. Other Federal agencies and pass-through entities in accordance with Section 200.512, OMB Uniform Guidance.

- B.** Copies of audit reports for audits conducted in accordance with Sections 200.500-200.521, OMB Uniform Guidance, and required by Part I of this Attachment (in correspondence accompanying the audit report, indicate the date that the Subrecipient received the audit report); copies of the reporting package described in Section 200.512, OMB Uniform Guidance, and any management letters issued by the auditor; copies of reports required by Part II of this Attachment must be sent to the Commission at the addresses listed in paragraph C. below.
- C.** Copies of financial reporting packages required by Part II of this Attachment, including any management letters issued by the auditor, shall be submitted by or on behalf of the Subrecipient directly to each of the following:
1. The Commission at the following address:  
  
**Office of Inspector General  
Florida Fish and Wildlife Conservation Commission  
Bryant Building  
620 S. Meridian St.  
Tallahassee, FL 32399-1600**
  
  - 2) The Auditor General's Office at the following address:  
  
**Auditor General's Office  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, FL 32399-1450**
- D.** Any reports, management letter, or other information required to be submitted to the Commission pursuant to this Agreement shall be submitted timely in accordance with OMB Sections 200.500-200.521, OMB Uniform Guidance, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

Subrecipients and sub-Subrecipients, when submitting financial reporting packages to the Commission for audits done in accordance with Sections 200.500-200.521, OMB Uniform Guidance, or Chapters 10.550 (local governmental entities) or 10.650 (non-profit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the Subrecipient/sub-Subrecipient in correspondence accompanying the reporting package.

*- End of Attachment -*

**Exhibit 1  
FEDERAL AND STATE FUNDING DETAIL**

**FEDERAL RESOURCES AWARDED TO THE SUBRECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:**

<b>Federal Program(s) Funds</b>		
<b>CFDA #</b>	<b>CFDA Title</b>	<b>Amount</b>
15.605	Sportfishing and Boating Safety Act	\$1,706,760
	Total Federal Awards	\$1,706,760

**COMPLIANCE REQUIREMENTS APPLICABLE TO THE FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:**

<b>Federal Program(s) Compliance Requirements</b>	
<b>CFDA #</b>	<b>Compliance Requirements</b>
15.605	50 CFR Part 80 Sport Fish Restoration Acts

**STATE RESOURCES AWARDED TO THE SUBRECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:**

**MATCHING RESOURCES FOR FEDERAL PROGRAMS:**

<b>Matching Funds Provided by CFDA</b>		
<b>CFDA #</b>	<b>CFDA Title</b>	<b>Amount of Matching Funds</b>
N/A	N/A	
	Total Matching Funds Associated with Federal Programs	

**SUBJECT TO SECTION 215.97, FLORIDA STATUTES:**

<b>State Project(s)</b>		
<b>CSFA #</b>	<b>CSFA Title</b>	<b>Amount</b>
N/A	N/A	
	Total State Awards	

**COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:**

<b>State Project(s) Compliance Requirements</b>	
<b>CSFA #</b>	<b>Compliance Requirements</b>
N/A	N/A

NOTE: Section 200.513, OMB Uniform Guidance (2 CFR 200), as revised, and Section 215.97(5), Florida Statutes, require that the information about Federal Programs and State Projects included in Exhibit 1 be provided to the Subrecipient.

*- End of EXHIBIT 1 -*

## Monitoring Guidelines

Florida has enhanced state and local capacity for public boating access through various funding sources including state and federal grant funds. The Florida Fish and Wildlife Conservation Commission (FWC) has a responsibility to track and monitor the status of grant activity and items purchased to ensure compliance with applicable U.S. Fish and Wildlife Service (USFWS) grant guidance and statutory regulations. The monitoring process is designed to assess a Grantee/Recipient or Sub-Recipient's (hereafter collectively referred to as Recipient) compliance with applicable state and federal guidelines.

Monitoring is accomplished utilizing various methods including desk monitoring and on-site visits. There are two primary areas reviewed during monitoring activities – financial and programmatic monitoring. Financial monitoring is the review of records associated with the purchase and disposition of property, projects and contracts. Programmatic monitoring is the observation of project construction, protocols and other associated records. Various levels of financial and programmatic review may be accomplished during this process.

Desk monitoring is the review of projects, financial activity and technical assistance between FWC and the applicant via e-mail and telephone or other electronic means. On-site monitoring are actual visits to the Recipient agencies by FWC representatives who examine records, procedures and projects.

### No Conflict of Interest:

Grant Managers shall complete the Agency 'No Conflict of Interest' form at the time they are assigned/assume responsibility for an agreement. If a conflict exists, the Grant Manager shall notify their immediate supervisor at the earliest opportunity. The supervisor is responsible to reassign the Agreement or coordinate with leadership and/or Legal to determine the appropriate resolution.

### Frequency of annual monitoring activity:

Each year the FWC will conduct monitoring based on a "Risk Assessment". The risk assessment tool is used to help in determining the priority of Recipients that should be reviewed and the level of monitoring that should be performed. It is important to note that although a given grant may be closed, it is still subject to either desk or on-site monitoring for a five (5) year period following closure.

### Areas that will be examined may include:

- Management and administrative procedures;
- Grant folder maintenance;
- Accounting system;
- Program for obsolescence;
- Status of expenditures;
- Status of planning, design and engineering activity;
- Anticipated projected completion;
- Difficulties encountered in completing projects;
- Agency NEPA/Section 7/EHP compliance documentation;
- Equal Employment Opportunity (EEO Status);
- Americans with Disabilities Act (ADA Status);
- Procurement Policy
- Procurement documents
- Subcontractor agreements if applicable

FWC may request additional monitoring/information if the activity, or lack thereof, generates questions from the USFWWS region, or FWC leadership. The method of gathering this information will be determined on a case-by-case basis.

Desk monitoring is an on-going process. Recipients will be required to participate in desk top monitoring as determined by FWC. This contact will provide an opportunity to identify the need for technical assistance (TA) and/or a site visit if FWC determines that a Recipient is having difficulty completing their project.

As difficulties/deficiencies are identified, the respective Recipient will be notified by the program office via email. Information will include the Recipient agency name, year and project description and the nature of the issue in question. Many of the issues that arise may be resolved at the Recipient level. Issues that require further TA will be assisted by FWC grant program staff. Examples of TA include but are not limited to:

- Eligibility of items or services
- Coordination and partnership with other agencies
- Record Keeping
- Reporting Requirements
- Documentation in support of a Request for Reimbursement

On-Site Monitoring will be conducted by FWC or designated personnel. On-Site Monitoring visits will be scheduled in advance with the Recipient agency Point of Contact (POC) designated in the funding agreement.

FWC will also conduct coordinated financial and grant file monitoring. Subject matter experts from other agencies within the region or state may be called upon to assist in the form of a peer review as needed.

#### On-Site Monitoring Protocol:

On-Site Monitoring Visits will begin with those Recipients that are currently spending or have completed spending for that federal fiscal year (FFY) or state fiscal year (SFY), as applicable. Site visits may be combined when geographically convenient. There is a financial/programmatic on-site monitoring checklist to assist in the completion of all required tasks.

#### Site Visit Preparation:

A letter will be sent to the Recipient agency POC outlining the date, time and purpose of the site visit before the planned arrival date.

The appointment should be confirmed with the Recipient in writing (email is acceptable) and documented in the Recipient folder.

The physical location of the project if located at an alternate site should be confirmed with a representative from that location and the address should be documented in the Recipient folder before the site visit.

#### On-Site Monitoring Visit:

Once FWC personnel have arrived at the site, an orientation conference will be conducted. During this time, the purpose of the site visit and the items FWC intends to examine will be identified. All objectives of the site visit will be explained at this time.

FWC personnel will review all files and supporting documentation. Once the supporting documentation has been reviewed, a tour/visual/spot inspection of the project site will be conducted.

All project deliverables selected for review should be visually inspected whenever possible. Acknowledgement of project funding should be placed in a prominent location in accordance with applicable agreement provisions. Photographs should be taken of the project site, signage and any other relevant activity.

If a project deliverable is not available at the time of the site visit, the appropriate documentation must be provided to account for the project progress.

Other programmatic issues can be discussed at this time such as missing quarterly project progress reports, payment/voucher /reimbursement, etc.

Post Monitoring Visit:

FWC personnel will review the on-site monitoring documents and backup documentation as a team and discuss the events of the on-site monitoring.

Within thirty (30) calendar days of the site visit, a post monitoring letter will be generated and sent to the Recipient explaining any issues and corrective actions required or recommendations. Should no issues or findings be identified, a post monitoring letter to that effect will be generated and sent to the Recipient. The Recipient will correct all deficiencies or submit a Corrective Action Plan within forty-five (45) calendar days of the monitoring letter date. Noncompliance on behalf of Recipients is resolved by FWC management under the terms of the Recipient Agreement.

The On-Site Monitoring report and all backup documentation will then be included in the Recipient's file.



**NOTICE OF GRANT AGREEMENT**

This Notice of Grant Agreement gives notice that the Real Property identified as described in Exhibit A, Legal Description, attached hereto, (the "Property") has been developed with financial assistance provided by the U.S. Fish and Wildlife Service, through the Fish and Wildlife Conservation Commission, under the grant program called the Sport Fish Restoration Grant program. In accordance with Chapter 68-1.003, F.A.C., and the 50 CFR Part 80, the Property is hereby dedicated to the public as a boating access facility for the use and benefit of the general public for a minimum period of twenty (20) years from the date of this dedication.

**DEDICATOR**

\_\_\_\_\_  
Original signature

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
by \_\_\_\_\_, who is personally known to me or who  
produced \_\_\_\_\_ as identification.

Stamp:

\_\_\_\_\_  
Notary Public, State of Florida

**STATE OF FLORIDA**  
**FWC BOATING ACCESS GRANTS**  
**FINANCIAL HISTORY & PERFORMANCE TRACKING**  
**ATTACHMENT E - FORM 1A**

**Recipient/Subrecipient**  
 City of Clearwater  
 25 Causeway Blvd, Suite 102  
 Clearwater, FL 33767  
 Michael MacDonald  
 (727) 562-4959

**AGREEMENT#** 24048

**QUARTERLY REPORTING DUE DATES**  
*(Drop box list below select the quarter of activity being reported along with year)*

**Period:**

**Financial History Report**

For directions click link [Instructions](#)

Shaded cells are calculated for you. You do not need to enter anything into them.

Category	Total Allocated	Quarterly Funds Expended	Total Funds Expended	Expenditure(s) Percent	Remaining Balance
Administration Costs (max 5% of total)	\$ -	\$ -	\$ -		\$ -
Contracted Services		\$ -	\$ -	#DIV/0!	\$ -
Permitting & Project Inspection Fees	\$ -	\$ -	\$ -		\$ -
Site Preparation		\$ -	\$ -	#DIV/0!	\$ -
Demolition & Removal		\$ -	\$ -	#DIV/0!	\$ -
Construction		\$ -	\$ -	#DIV/0!	\$ -
Equipment (Rental or In-Kind Use)		\$ -	\$ -	#DIV/0!	\$ -
Contingency Costs		\$ -	\$ -	#DIV/0!	\$ -
Other Costs	\$ -	\$ -	\$ -		\$ -
Pre-Award Costs	Yes				
<b>Total Expenditures</b>		<b>\$ -</b>	<b>\$ -</b>		<b>\$ -</b>

**Performance Tracking**

Project Title	Category	Start Date	Projected End Date	Percentage Completed	Funds Allocated (Budget)	Project Status
<b>TOTAL (or Average Percentage)</b>				<b>#DIV/0!</b>	<b>\$ -</b>	

Cumulative Amount Previously Submitted for Reimbursement \_\_\_\_\_ Total Received \_\_\_\_\_

**I hereby certify that the above cost are true and valid cost incurred in accordance with the project agreement.**

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
**Grant Manager**

**I hereby certify that the above costs are true and valid costs incurred in accordance with the project agreement.**

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
**Financial Officer**

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise.

**FWC BOATING ACCESS GRANTS**  
**Quarterly Status Report**  
**ATTACHMENT E - FORM 1B**

**Recipient/Subrecipient**

City of Clearwater  
25 Causeway Blvd, Suite 102  
Clearwater, FL 33767  
Michael MacDonald

**AGREEMENT#** 24048

**INSTRUCTIONS**

**For instructions on completing**

*click the HELP button*

**PROJECT STATUS** (Provide a status for each Category with an allocation. i.e. Permitting, Demolition, Construction, etc.)

**TIMELINE OF EVENTS FOR REPORTING PERIOD**

**OTHER** (Optional) - Can report internal expenditures not yet claimed and/or any projected balance, project delays and reason (i.e. cost savings, permits, etc.).

**TECHNICAL ASSISTANCE**

Is technical assistance needed: \_\_\_\_\_ If "yes", are you requesting, onsite visit or phone call \_\_\_\_\_

**I hereby certify that the above information provided are true and the cost(s) are valid cost(s) incurred in accordance with the project agreement.**

Signed: \_\_\_\_\_

**Grant Manager**

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

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise.

**ATTACHMENT E**  
**FWC BOATING ACCESS GRANTS**  
**GRANT RECIPIENT/SUBRECIPIENT FORMS and REQUIREMENTS**

AGREEMENT# 24048

**Quarterly Financial History, Performance, & Status Report (Form 1A and Form 1B):**

The reporting requirements noted in this section are designed to provide the state with sufficient information to monitor grant implementation and goal achievement. To support effective monitoring of the grant, progress reports must be:

1. Completed on a quarterly basis. In order to be considered in compliance with the terms of the Agreement, the required reports must be submitted no later than **15** days after the end of each Quarterly Reporting period.
2. These reports are to include, but not be limited to, the work that has been completed, the work in progress and the timeline of the work left to be completed. If any delays from the original timeline have occurred, specify the reason and revise the completion timeline. Note if ahead of schedule or unexpected cost savings.
3. If expenditures do not occur during the Quarter being reported, a Quarterly Report should still be submitted along with a complete explanation on Forms **1A** and **1B**. Not submitting Quarterly Reports can result in a delay of receiving funds. No funds will be dispersed until all Quarterly Reports are current.

**FORM 1A**

**Completing the Quarterly Report**

1. Fill in the Recipient/Subrecipient contact information to the left: Agency/Organization Name, Address, POC Name and Phone number. Fill in the Agreement number and select the appropriate reporting period and year being reported on using the drop box menu below agreement number.
2. number.

**Financial History**

For each applicable category identify the amount allocated, quarterly funds expended, and total funds expended to date. All shaded cells will auto-populate.

- **Amount Allocated:** Should be aligned with your current budget. Requests for a revised budget shall be preapproved by the FWC Grant Manager and may require execution of an Amendment to the Funding Agreement to modify scope and/or budget.
- **Quarterly Funds Expended:** Should reflect total funds **expended during the period** for which you are reporting.
- **Total Funds Expended:** Should reflect the entire amount of funds **expended up to the last day** of the reporting period.
- **Expenditure(s) Completion Percent:** Will auto-populate and reflect the percent of funds expended based on Amount Allocated and Total Funds Expended.
- **Remaining Balance:** Will auto-populate and reflect the remaining balance based on Amount Allocated and Total Funds Expended.

**Performance Tracking**

For the Performance Tracking section of the reporting form, each Project budgeted on this Agreement should be reported separately to reflect the current status.

- **Project Title:** Identify each project title, (i.e. Moore Haven Marina Seawall, Old Ferry Dock Boat Ramp, etc.)
- **Category:** Select the category associated with the project from the drop-box menu. If the project is associated with multiple categories list the project multiple times on the Project Title section and report accordingly. (i.e. Administration, Contracted Services, Permitting & Inspection Fees).
- **Start Date:** This date should identify the actual start date of the project, if the project has not started list the projected start date.
- **Projected End Date:** List the anticipated end date of the project and/or actual end date of the project.
- **Percentage Completed:** Identify progress made by utilizing percentages, showing how far or near the project is to completion. (0% to 100% scale). For non-construction projects this may be estimated, and for construction projects refer to AIA G-702 form.
- **Funds Allocated (Budget):** Funds allocated should reflect the amount of funds allocated for each project category and should be in agreement with your current budget. If not, submit a request for a revised budget. Requests shall be preapproved by the FWC Grant Manager and may require execution of an Amendment to the Funding Agreement to modify scope and/or budget.
- **Project Status:** Select the appropriate status of the project from the drop-box menu. If Delays, Issues, or Cancellations are selected, please expand on it in the narrative portion of the reporting form.
- **Cumulative Amount Previously Submitted for Reimbursement** Should reflect the total amount of all claims that have been submitted for reimbursement to date. **Total Received** Should reflect the total amount of funds received to date.

**\*\*\*Both Grant Manager and Financial Officer should verify and sign off on this section.\*\*\***

**FORM 1B**

**ATTACHMENT E**  
**FWC BOATING ACCESS GRANTS**  
**GRANT RECIPIENT/SUBRECIPIENT FORMS and REQUIREMENTS**

**Project Status for Reporting Quarter**

Provide a detailed narrative status update for all projects.

**Timeline of Events for Reporting Quarter**

List project activities and milestones (i.e. P.O., Contract Executed, etc.) by date, followed by a brief description of the milestone. Also include whether the project will be completed on schedule. If not, indicate the timeframe for completion, reason for the delay and the effect of these challenges on the remaining schedule for achieving the other objectives of the project.

**Other**

List any additional project information.

**Technical Assistance**

If technical assistance is needed, please indicate the type of technical assistance required.

**Recipient/Subrecipient POC needs to sign certifying that the information provided within the quarterly report is true and the cost(s) are valid cost(s) incurred in accordance with the Project Agreement.**

**FORM 2**

**Completing Reimbursement Request FORM 2**

1. Fill in the Recipient/Subrecipient contact information to the left: Agency/Organization Name, Address, POC Name and Phone Number.
2. Fill in the Agreement number and reimbursement information.

- **Agreement Amount:** Should reflect the amount of the actual Agreement.
- **Submission Date:** Date reimbursement request is sent to State Administrative Agency for processing.
- **Payment #:** Should be the numeric value representing the reimbursement submission in sequential order. (i.e. 1,2,3....etc.)
- **Payment Amount:** Should reflect the total amount being requested for reimbursement.
- **Funds Expended During the Period:** This should reflect the timeframe funds were expended for the purchase and/or service.
- **Category Table:** This should reflect the amount claimed against each category.
- **Total Expenditures:** Should auto-populate and reflect the amount being claimed.

**FORM 3**

**Detail Of Claims**

1. Fill in your Agency/Organization Name and Agreement number.

Complete this form separately for each category claimed. Select the appropriate category and itemize all costs within that category that are applicable to the reimbursement request.

- **Vendor:** Indicate the vendor used for purchase/service.
- **Date Paid:** Date should indicate the date the payment was made for the purchase and/or service.
- **Check #:** Indicate check number or payment form if check was not utilized. (i.e. ETF for electronic funds transfer)
- **Description:** Brief description of purchase/service provided.
- **Amount:** This should only indicate the amount claiming for reimbursement. If the amount claiming is less than the invoice or check, indicate that on description section or notate on backup document.

**FORM 4**

**Instructions for Completing the Time and Effort Reporting (if applicable)**

- According to Federal cost principals employees/contract employees who are paid in full or partially from federal sources must document their time in the form of personnel activity reports (Time and Effort Reports).
- All subrecipient Agreements that contain Administration cost are required to submit a Time and Attendance Report as part of their reimbursement packet. This includes when Administration/Contract Management are claimed as In-Kind Cost Share (Match).

**ATTACHMENT E**  
**FWC BOATING ACCESS GRANTS**  
**GRANT RECIPIENT/SUBRECIPIENT FORMS and REQUIREMENTS**

➤	The Time and Effort Report must account for all activity in which the employee/contract employee is being compensated and not merely the activity being requested for reimbursement to a specific Funding Agreement.
➤	The report should reflect an after-the-fact distribution of time associated with each activity/project by the employee/contractor.
➤	Subrecipients must use the attached Time and Effort Reporting to account for an employee/contractor actual time by activity/project and must account for 100% of the time the individual is being compensated from the grant.
➤	Charges for sick time, vacation, holiday and all costs associated with fringe benefits or employee related expenses shall be allocated at proper percentages. A Recipient/Subrecipient may not charge more hours to a Funding Agreement for such expenses than that Recipient/Subrecipient is charged for the employee/contract employee compensation. As an example, if a Time and Effort Report shows that he or she spent 8 hours of his or her time on boating access project activity, no more than the corresponding percentage (activity time divided by contracted hours) of his or her fringe benefit charges may be applied to that Funding Agreement. If that employee/contract employee is paid from multiple boating access projects, fringe benefit charges may only be applied to each individual project Funding Agreement at the percentage that the employee/contract employee's time is charged to each individual project Funding Agreement.
➤	Subrecipients are responsible for the proper allocation to Administration charges as they relate to personnel costs. Grant guidance should be used as a resource to determine the differences and allowability. Supervisors signing the Time and Effort Report are attesting that the report and distribution of time meets the requirements as stated in grant guidance, and your Funding Agreement.
<b>FORM 5</b>	

**Instructions for Completing the Certification of Completion Statement**

	Indicate the grant program from which funding was received.
➤	Enter FWC Agreement number if not already populated.
➤	Print your name and title and the entity name which is reflected on the funding agreement.
➤	Sign and date form. Within thirty (30) days of completion of the project, submit Form 5 to the FWC grant manager <b>with photos</b> documenting the project to include all deliverables which received funding from the grant. FWC will complete the rest of the form.
<b>FORM 6</b>	

**Completing the Final Project Closeout Report**

Fill in the Subrecipient contact information: Subrecipient Agency/Organization Name, Address, Agreement #, Agreement Amount, Agreement Period of Performance (Execution date to end date).

- **Total Expenditures:** Indicate the amount expended per category and cumulative amount expended.
- **Agreement Amount:** Agreement amount taking account any modification made to the agreement.
- **Deobligated Funds:** Cumulative amount of funds not being used and will be reverted back to the state.

**Date Expenditure(s) Payment Received**

Indicate the date(s) that your payment(s) from the State for your reimbursement request(s) was/were received by your organization and the amount of the payment.

- **Was income earned on the project during the Period of Performance?:** Program income is gross income earned by a Recipient/Subrecipient that is directly generated by a grant-supported activity, or earned as a result of the grant, during the grant period. Was incomes earned as defined? If yes, include a check for the income with the close-out report.
- **Were Funds Expended in accordance with Agreement terms?:** All expenditures should be in accordance with applicable policies and procedures: Federal, State, and Local level, including agreement terms. If any costs were reimbursed but determined later to be ineligible for funding, refund of funds is required within thirty (3) calendar days of completion of the project.
- **All Quarterly reports submitted up to current reporting period:** Quarterly reports must be submitted from the period in which the Agreement was executed up to the period in which the close-out is approved. If close-out approval process is extended into an additional quarter due to corrections needed by the Recipient/Sub-Recipient, the Recipient/Sub-Recipient must submit a report for that additional period.

**Program Income, Refund And/or Final Interest Check**

Any funds owed to the FWC must be returned within thirty (30) calendar days of project completion. Please contact your grant manager if you owe the FWC funds for any reason.

**Grant Manager and Financial Officer needs to sign certifying that the information provided within the close-out is true and the cost(s) are**

**ATTACHMENT E**  
**FWC BOATING ACCESS GRANTS**  
**GRANT RECIPIENT/SUBRECIPIENT FORMS and REQUIREMENTS**

Grant Manager, and maintain correct records of all activity, including but not limited to, purchase orders, invoices and receipts, and valid cost(s) incurred in accordance with the Agreement.

**FORM 7**

**Post Award Use & Access Annual Report**

Fill in the Subrecipient contact information: Subrecipient Agency/Organization Name, Address, Agreement #, Agreement Amount, Agreement Period of Performance (Execution date to end date).

- **Total Expenditures:** Indicate the amount expended per category and cumulative amount expended.
- **Agreement Amount:** Agreement amount taking account any modification made to the agreement.
- **Deobligated Funds:** Cumulative amount of funds not being used and will be reverted back to the state.

**FORM 8**

**Subcontractor List**

- Fill in the names of any companies which are intended to be selected to implement work under this Agreement. Submit list to Grant Manager prior to entering into a contract so that applicable review and verification may be completed. Include the DUNS (Dun & Bradstreet) or Unique Identifier for each company.

**STATE OF FLORIDA  
FWC BOATING ACCESS GRANTS  
REIMBURSEMENT REQUEST  
ATTACHMENT E - FORM 2**

**Recipient/Subrecipient**  
 City of Clearwater  
 25 Causeway Blvd, Suite 102  
 Clearwater, FL 33767  
 Michael MacDonald  
 (727) 562-4959

**AGREEMENT#** 24048

Agreement Amount	
Submission Date	
Reimbursement #	
Requested Amount	

**COSTS INCURRED DURING THE PERIOD OF:** \_\_\_\_\_ **THROUGH** \_\_\_\_\_

Shaded cells are calculated for you. You do not need to enter anything into shaded cells.

**THIS MUST BE ACCOMPANIED BY THE DETAIL OF CLAIMS FORM**

	Total Cost	Match/Cost Share	Other	Grant Cost (FBIP/BIGP/SFR)
Administration Costs (max 5% of total)	\$ -			
Contracted Services	\$ -			
Permitting & Project Inspection Fees	\$ -			
Site Preparation	\$ -			
Demolition & Removal	\$ -			
Construction	\$ -			
Equipment (Rental or In-Kind Use)	\$ -			
Contingency Costs	\$ -			
Other Costs	\$ -			
Pre-Award Costs	\$ -			
<b>Totals</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Percentage</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>	<b>#DIV/0!</b>

I hereby certify that the above costs are true and valid costs incurred in accordance with the project agreement.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
**Grant Manager**

I hereby certify that the above costs are true and valid costs incurred in accordance with the project agreement.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
**Financial Officer**

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise.

**TO BE COMPLETED BY FWC STAFF**

<b>AGREEMENT AMOUNT</b>	
<b>PREVIOUS PAYMENT(S)</b>	<b>#VALUE!</b>
<b>THIS PAYMENT</b>	
<b>REMAINING BALANCE</b>	<b>#VALUE!</b>

<b>TOTAL AMOUNT TO BE PAID ON THIS INVOICE</b>
_____

**DATE SUBMITTED TO FWC** \_\_\_\_\_





**STATE OF FLORIDA  
FWC BOATING ACCESS GRANTS  
TIME AND EFFORT  
ATTACHMENT E - FORM 4**

This form is required to accompany reimbursement claims for **salaries credited as match/cost share** to the grant.

Employee Name: \_\_\_\_\_ Agreement: 24048

Pay Period: \_\_\_\_\_ TO \_\_\_\_\_ Indicate Contracted Hours for Pay Period \_\_\_\_\_

		Week 1								Week 2								Grand Total	
	Hours Type	S	S	M	T	W	T	F	Total	S	S	M	T	W	T	F	Total		
1	Administration Costs (max 5% of total)								0									0	0
2	Vacation								0									0	0
3	Sick Time								0									0	0
4									0									0	0
5									0									0	0
6									0									0	0
7									0									0	0
8									0									0	0
9									0									0	0
10									0									0	0
11									0									0	0
12									0									0	0
13									0									0	0
14									0									0	0
<b>Daily Totals</b>		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Week One Total</b>									<b>0</b>	<b>Week Two Total</b>								<b>0</b>	<b>0</b>

I hereby certify that the above allocation of my time is accurate for the time period in which this report covers.

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

I hereby certify that to the best of my knowledge and belief, the reported time allocation entered in this report is accurate and in accordance with Local, State, and Federal Regulations and Guidance as applicable pertaining to reimbursement on Boating Access Grants.

Supervisor Signature: \_\_\_\_\_ Date: \_\_\_\_\_

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise.

**STATE OF FLORIDA  
FWC BOATING ACCESS GRANTS  
ATTACHMENT E - FORM 5**

**CERTIFICATION OF COMPLETION STATEMENT**

**Grant Program:**

**FWC Agreement #** 24048

- Boating Infrastructure Grant Program (BIGP)  
 Florida Boating Improvement Program (FBIP)  
 Sportfish Restoration Program (SFR)

I, \_\_\_\_\_  
(Print or Type Name and Title)

representing City of Clearwater  
(Name of Recipient Agency/Entity)

do hereby certify that the project funded by FWC Agreement # 24048 has been completed in compliance with all terms and conditions of said Agreement; that all amounts payable for materials, labor and other charges against the project have been paid; and that no liens have been attached against the project.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

WARNING: "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083." § 837.06, Florida Statutes.

**CERTIFICATION BY COMMISSION**

I certify: That to the best of my knowledge and belief, the work on the above-named project has been satisfactorily completed under the terms of the Agreement.

\_\_\_\_\_  
(Division)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Print or Type Name and Title)

Inspected: \_\_\_\_\_ Yes \_\_\_\_\_ No or N/A \_\_\_\_\_ Engineer Reviewed

\_\_\_\_\_  
(Name of Inspector/Engineer)

\_\_\_\_\_  
(Date of Inspection)

**STATE OF FLORIDA  
FWC BOATING ACCESS GRANTS  
PROJECT CLOSE-OUT REPORT  
ATTACHMENT E - FORM 6**

This form should be completed and submitted to the Commission no later than **thirty (30) days** after completion of projects or the termination date of the Agreement, whichever occurs first.

**City of Clearwater**  
RECIPIENT / SUBRECIPIENT

**25 Causeway Blvd, Suite 102**  
ADDRESS

**Clearwater, FL 33767**  
CITY AND STATE

24048  
AGREEMENT #

**\$0.00**  
AGREEMENT AMOUNT

AGREEMENT PERIOD OF PERFORMANCE

(1) COST CATEGORIES	(2) TOTAL EXPENDITURES
Administration Costs (max 5% of total)	
Contracted Services	
Permitting & Project Inspection Fees	
Site Preparation	
Demolition & Removal	
Construction	
Equipment (Rental or In-Kind Use)	
Contingency Costs	
Other Costs	
Pre-Award Costs	
<b>Total</b>	\$ -

(3) DATE*	(4) DATE EXPENDITURE(S) PAYMENT RECEIVED AMOUNT
<b>Total</b>	\$ -

**Please Indicate Amounts For The Following:**

Agreement Amount	\$ -
Total Expenditures	\$ -
Deobligated Funds	\$ -

- Was income earned on the project during the POP? Y/N \_\_\_\_\_
- Were funds expended in accordance with agreement terms? Y/N \_\_\_\_\_
- All quarterly reports submitted up to current reporting period? Y/N \_\_\_\_\_
- Certification of Completion & photos submitted? Y/N \_\_\_\_\_

**REFUND AND/OR PROGRAM INTEREST CHECK**

Refund and/or final program income check is due no later than thirty (30) days after the completion of the project.

Date Form 5 signed by Recipient: **01/00/00**

**Make check payable to :** Florida Fish & Wildlife Conservation Commission  
Grants & Revenue Section  
Florida Fish & Wildlife Conservation Commission  
620 S. Meridian Street  
Tallahassee, FL 32399

Is documented match/cost share sufficient? Y/N \_\_\_\_\_

I hereby certify that the above cost(s) are true and valid cost(s) incurred in accordance with the project agreement.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
Grant Manager

I hereby certify that the above costs are true and valid costs incurred in accordance with the project agreement.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
Financial Officer

**By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the State or Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise.**

**STATE OF FLORIDA  
FWC BOATING ACCESS GRANTS  
POST AWARD USE & ACCESS ANNUAL REPORT  
ATTACHMENT E - FORM 7**

**Recipient:** City of Clearwater FWC AGREEMENT # 24048

**Project Title:** \_\_\_\_\_

**Project Address:** \_\_\_\_\_

**Agreement End Date:** \_\_\_\_\_

**Useful Life End Date:** \_\_\_\_\_

Reporting period is the July 1-June 30 state fiscal year.

Provide a description of the condition of any facilities funded with Program funds including any major repairs to the facilities.

Indicate the amount of revenue collected from any permits or fees for the use of the facilities.

\$ \_\_\_\_\_

Is this amount Actual or Estimated?

If there is any anticipated permit or fee increase/decrease, please provide the current and proposed amounts, and the reason for the change.

Estimate the number of annual users of the facilities.

The FWC Funding Agreement Scopes of Work stipulate in Section 15, SPECIAL PROVISIONS FOR CONSTRUCTION PROJECTS that the Commission will ensure funds collected are not reallocated or diverted to any non-boating access related purpose.

I hereby certify that the above report is true and correct to the best of my knowledge as of this date in accordance with the project Agreement, and that the fees generated from use of the grant funded project(s) were expended for the operation and maintenance of the project in this Agreement.

Signed: \_\_\_\_\_

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

Title: \_\_\_\_\_

Submitted by: \_\_\_\_\_

Title: \_\_\_\_\_

**STATE OF FLORIDA  
FWC BOATING ACCESS GRANTS  
SUBCONTRACTOR LIST  
ATTACHMENT E - FORM 8**

**AGREEMENT#**      24048

**RECIPIENT:** City of Clearwater

**This form is required to be completed by the Recipient prior to entering into subcontracts. The citations below are excerpts, please read the entire funding agreement for full subcontractor requirements. This form is a tool to help Recipients collect and retain required documents, and may be modified as needed by Recipients.**

In accordance with FWC Funding Agreement Section 14, SUBCONTRACTS, A. Authority, "The Recipient must provide the Commission with the names of any subrecipient or subcontractor considered for work under this Agreement; the Commission reserves the right to reject any subrecipient or subcontractor." *This section also requires subcontractor Conflict of Interest disclosures.*

In accordance with FWC Funding Agreement Section 15, MANDATORY DISCLOSURES, the Commission may verify the entities listed below against the convicted, suspended or discriminatory vendor lists.

If applicable, in accordance with FWC Funding Agreement Section 24, FEDERAL FUNDS, the Commission may verify the entities listed below are not Debarred, Suspended, Ineligible or Voluntarily Excluded from participation in this transaction. The Commission may request documents to support adherence to E-Verify or any other applicable federal requirement of this Agreement.

<p>Vendor/Contractor _____</p> <p>Unique Entity ID (UEI) _____</p> <p>COI Certification Received _____ E-Verify Reg./Affidavit Received _____</p>	<p>Vendor/Contractor _____</p> <p>Unique Entity ID (UEI) _____</p> <p>COI Certification Received _____ E-Verify Reg./Affidavit Received _____</p>
<p>Vendor/Contractor _____</p> <p>Unique Entity ID (UEI) _____</p> <p>COI Certification Received _____ E-Verify Reg./Affidavit Received _____</p>	<p>Vendor/Contractor _____</p> <p>Unique Entity ID (UEI) _____</p> <p>COI Certification Received _____ E-Verify Reg./Affidavit Received _____</p>
<p>Vendor/Contractor _____</p> <p>Unique Entity ID (UEI) _____</p> <p>COI Certification Received _____ E-Verify Reg./Affidavit Received _____</p>	<p>Vendor/Contractor _____</p> <p>Unique Entity ID (UEI) _____</p> <p>COI Certification Received _____ E-Verify Reg./Affidavit Received _____</p>
<p>Vendor/Contractor _____</p> <p>Unique Entity ID (UEI) _____</p> <p>COI Certification Received _____ E-Verify Reg./Affidavit Received _____</p>	<p>Vendor/Contractor _____</p> <p>Unique Entity ID (UEI) _____</p> <p>COI Certification Received _____ E-Verify Reg./Affidavit Received _____</p>

**STATE OF FLORIDA  
FWC BOATING ACCESS GRANTS  
SUBCONTRACTOR MINORITY STATUS REPORT  
ATTACHMENT E - FORM 9**

**Date:** \_\_\_\_\_ **FEIN:** \_\_\_\_\_  
**Contractor Company/Recipient Info:** **UEI:** \_\_\_\_\_  
City of Clearwater **FWC Solicitation/Contract #:** 24048  
25 Causeway Blvd, Suite 102 **FWC Project Title:** \_\_\_\_\_  
Clearwater, FL 33767  
(727) 562-4959

**Contract Amount:** \_\_\_\_\_ **Invoice Number:** \_\_\_\_\_

The Contractor shall indicate "N/A" if the project does not utilize subcontractors.

PRIMARY CONTRACTOR				SUBCONTRACTOR				
Name	<sup>2</sup> CBE Code	Invoice #	Payment Amount	Name	FEIN or UEI#	<sup>2</sup> CBE Code	Description of Service	Payment Amount
City of Clearwater			\$					\$
			\$					\$
			\$					\$
			\$					\$
<b>Total of Subcontractor Payment(s)</b>								\$ -

<sup>1</sup>OSD Certification Status: Check certification status using the OSD Certified Businesses Directory at: <https://osd.dms.myflorida.com/directories>  
or MyFloridaMarketPlace (MFMP) Vendor Information Portal at: <https://vendor.myfloridamarketplace.com>

**<sup>2</sup>CBE Codes:** **A** - Non-Minority | **H** - African-American, Certified | **I** - Hispanic, Certified | **J** - Asian-American business, Certified | **K** - Native American, Certified | **M** - Women-Owned, Certified | **N** - African-American, Non-Certified | **O** - Hispanic, Non-Certified | **P** - Asian-American, Non-Certified | **Q** - Native American, Non-Certified | **R** - Woman-Owned, Non-Certified | **W** - Service-Disabled Veteran Business Enterprise, Certified

The State of Florida's Office of Supplier Diversity (OSD) certifies woman-, veteran-, and minority-owned businesses for free. If a subcontractor is a woman-, veteran-, or minority-owned business that is not certified by the State of Florida, refer them to OSD to learn more about the benefits of this free certification: [www.dms.myflorida.com/osd](http://www.dms.myflorida.com/osd) or 850-487-0915.

**INCLUDE THIS FORM WITH EACH INVOICE FOR PAYMENT**

I hereby certify that the above information is true to the best of my knowledge and was obtained from the Subcontractor(s) listed.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
Grant Manager



Florida Fish and Wildlife Conservation Commission
FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT FORM
Subaward to a Recipient

PURPOSE: The Federal Funding Accountability and Transparency Act (FFATA) was signed on September 26, 2006. The intent of this legislation is to empower every American with the ability to hold the government accountable for each spending decision.

The FFATA Subaward Reporting System (FSRS) is the reporting tool the Florida Fish and Wildlife Conservation Commission ("FWC" or "Commission") must use to capture and report subaward and executive compensation data regarding first-tier subawards that obligate \$30,000 or more in Federal funds (excluding Recovery funds as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5).

[Note: This reporting requirement is not applicable for the procurement of property and services obtained by the FWC through a Vendor relationship. Refer to 2 CFR Ch.1 Part 170 Appendix A, Section I.c.3 for the definition of "subaward".]

ORGANIZATION AND PROJECT INFORMATION:

The following information must be provided to the FWC prior to the FWC's issuance of a subaward (Agreement) that obligates \$30,000 or more in federal funds as described above. Please provide the following information and return the signed form to the Commission as requested.

UEID: H8ARNKM182M3

\* If your company or organization does not have a UEID number, you will need to obtain one from through the System for Award Management (SAM.gov).

BUSINESS NAME: City of Clearwater

OBA NAME (IF APPLICABLE):

PRINCIPAL PLACE OF BUSINESS ADDRESS:

ADDRESS LINE 2:

ADDRESS LINE 3:

CITY:

STATE: ZIP CODE+4\*\*:

PARENT COMPANY UEID# (IF APPLICABLE):

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA#):

DESCRIPTION OF PROJECT (UP TO 4000 CHARACTERS):

Empty rectangular box for project description.



**PRINCIPAL PLACE OF PROJECT PERFORMANCE (IF DIFFERENT THAN PRINCIPAL PLACE OF BUSINESS)**

ADDRESS LINE 1: \_\_\_\_\_

ADDRESS LINE 2: \_\_\_\_\_

ADDRESS LINE 3: \_\_\_\_\_

CITY: \_\_\_\_\_

STATE: \_\_\_\_\_ ZIP CODE+4\*\*: \_\_\_\_\_

CONGRESSIONAL DISTRICT FOR PRINCIPAL PLACE OF PROJECT PERFORMANCE: \_\_\_\_\_

\*\*Providing the Zip+4 ensures that the correct Congressional District is reported.

**EXECUTIVE COMPENSATION INFORMATION:**

1. In your business or organization's previous fiscal year, did your business or organization (including parent organization, all branches, and all affiliates worldwide) receive (a) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance (e.g. loans, grants, subgrants, and/or cooperative agreements, etc.) subject to the Transparency Act, as defined at 2 CFR 170.320; *all d*, (b) \$30,000,000 or more in annual gross revenues from U.S. Federal procurement contracts (and subcontracts) and Federal financial assistance (e.g. loans, grants, subgrants, and/or cooperative agreements, etc.) subject to the Transparency Act?

Yes \_\_\_\_\_ No \_\_\_\_\_

*If the answer to Question 1 is "Yes," continue to Question 2. If the answer to Question 1 is "No", move to the signature block below to complete the certification and submittal process.*

2. Does the public have access to information about the compensation of the executives in your business or organization (including parent organization, all branches, and all affiliates worldwide) through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or Section 6104 of the Internal Revenue Code of 1986?

Yes \_\_\_\_\_ No \_\_\_\_\_

*If the answer to Question 2 is "Yes," move to the signature block below to complete the certification and submittal process. [Note: Securities Exchange Commission information should be accessible at <http://www.sec.gov/answers/execomp.htm> . Requests for Internal Revenue Service (IRS) information should be directed to the local IRS for further assistance.]*

*If the answer to Question 2 is "No" FFATA reporting is required. Provide the information required in the "TOTAL COMPENSATION CHART FOR MOST RECENTLY COMPLETED FISCAL YEAR" appearing below to report the "Total Compensation" for the five (5) most highly compensated "Executives", in rank order, in your organization. For purposes of this request, the following terms apply as defined in 2 CFR Ch. I Part 170 Appendix A:*

"Executive" is defined as "officers, managing partners, or other employees in management positions".

"Total Compensation" is defined as the cash and noncash dollar value earned by the executive during the most recently completed fiscal year and includes the following:

- i. Salary and bonus.
- ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for
- iii. financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
- iv. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives and are available generally to all salaried employees.
- v. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
- vi. Above-market earnings on deferred compensation which is not tax-qualified.
- vii. Other compensation, if the aggregate value of all such other compensation (e.g. severance termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

**TOTAL COMPENSATION CHART FOR MOST RECENTLY COMPLETED FISCAL YEAR**

(Date of Fiscal Year Completion (mm/dd/yyyy): \_\_\_\_\_)

Rank (Highest to Lowest)	Name (Last, First, MI)	Title	Total Compensation for Most Recently Completed Fiscal Year
1			
2			
3			
4			
5			

THE UNDERSIGNED AS (enter position title): \_\_\_\_\_ OF  
 (Business Name) \_\_\_\_\_ CERTIFIES THAT ON THE DATE WRITTEN  
 BELOW, THE INFORMATION PROVIDED HEREIN IS ACCURATE.

Type or Print Name: \_\_\_\_\_

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

**For FWC Agency Use Only:**

Prime award Granting Entity: \_\_\_\_\_

Prime award Granting Entity Number: \_\_\_\_\_ Prime award UEID #: \_\_\_\_\_

FWC FLAIR Grant #: \_\_\_\_\_ FWC Subaward Contract #: \_\_\_\_\_ Congressional District: \_\_\_\_\_

**Completed forms should be sent to [FFATA@MyFWC.com](mailto:FFATA@MyFWC.com) within five (5) business days of contract execution or within two (2) days of the end of the month that the contract is executed (whichever is sooner).**

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 80

[Docket No. FWS-R9-WSR-2009-0088; 91400-5110-POLI-7B; 91400-9410-POLI-7B]

RIN 1018-AW65

**Financial Assistance: Wildlife Restoration, Sport Fish Restoration, Hunter Education and Safety**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, are revising regulations governing the Wildlife Restoration, Sport Fish Restoration, and Hunter Education and Safety (Enhanced Hunter Education and Safety) financial assistance programs. We proposed a revision of these regulations on June 10, 2010, to address changes in law, regulation, policy, technology, and practice during the past 25 years. We also proposed a clarification of some provisions of the issue-specific final rule that we published on July 24, 2008. This final rule simplifies specific requirements of the establishing authorities of the three programs and clarifies terms in those authorities as well as terms generally used in grant administration. We organized the final rule to follow the life cycle of a grant, and we reworded and reformatted the regulations following Federal plain language policy and current rulemaking guidance.

**DATES:** The final rule is effective on August 31, 2011.

**FOR FURTHER INFORMATION CONTACT:** Joyce Johnson, Wildlife and Sport Fish Restoration Program, Division of Policy and Programs, U.S. Fish and Wildlife Service, 703-358-2156.

**SUPPLEMENTARY INFORMATION:**

**Background**

This final rule revises title 50 part 80 of the Code of Federal Regulations (CFR), which is "Administrative Requirements, Pittman-Robertson Wildlife Restoration and Dingell-Johnson Sport Fish Restoration Acts." The primary users of these regulations are the fish and wildlife agencies of the 50 States, the Commonwealths of Puerto Rico and the Northern Mariana Islands, the District of Columbia, and the territories of Guam, the U.S. Virgin Islands, and American Samoa. We use "State" or "States" in this document to refer to any or all of these jurisdictions,

except the District of Columbia for purposes of the Pittman-Robertson Wildlife Restoration Act and the two grant programs and one subprogram under its authority, because the Act does not authorize funding for the District. The term, "the 50 States," applies only to the 50 States of the United States. It does not include the Commonwealths of Puerto Rico and the Northern Mariana Islands, the District of Columbia, or the territories of Guam, the U.S. Virgin Islands, and American Samoa.

These regulations tell States how they may: (a) Use revenues from hunting and fishing licenses; (b) receive annual apportionments from the Federal Aid to Wildlife Restoration Fund and the Sport Fish Restoration and Boating Trust Fund; (c) receive financial assistance from the Wildlife Restoration program, the Basic Hunter Education and Safety subprogram, and the Enhanced Hunter Education and Safety program; and (d) receive financial assistance from the Sport Fish Restoration program, the Recreational Boating Access subprogram, the Aquatic Resources Education subprogram, and the Outreach and Communications subprogram. These programs provide financial assistance to State fish and wildlife agencies to: (a) Restore or manage wildlife and sport fish; (b) provide hunter-education, hunter-development, and hunter-safety programs; (c) provide recreational boating access; (d) enhance the public's understanding of water resources, aquatic-life forms, and sport fishing; and (e) develop responsible attitudes and ethics toward aquatic and related environments. The Catalog of Federal Domestic Assistance at <https://www.cfda.gov> describes these programs under 15.611, 15.605, and 15.626.

The Pittman-Robertson Wildlife Restoration Act, as amended (50 Stat. 917; 16 U.S.C. 669-669k), and the Dingell-Johnson Sport Fish Restoration Act, as amended (64 Stat. 430; 16 U.S.C. 777-777n, except 777e-1 and g-1), established the programs affected by this final rule in 1937 and 1950 respectively. We refer to these acts in this document and in the final rule as "the Acts." They established a hunting- and angling-based user-pay and user-benefit system in which the State fish and wildlife agencies of the 50 States, the Commonwealths, and the territories receive formula-based funding from a continuing appropriation from a dedicated fund in the Treasury. The District of Columbia also receives funding, but only under the Dingell-Johnson Sport Fish Restoration Act. The Pittman-Robertson Wildlife Restoration

Act does not authorize funding for the District of Columbia. Industry partners pay excise taxes into a dedicated fund in the Treasury on equipment and gear manufactured for purchase by hunters, anglers, boaters, archers, and recreational shooters. The Service distributes these funds to the fish and wildlife agencies of the States that contribute matching funds, generally derived from hunting and fishing license sales. In fiscal year 2010, the States and other eligible jurisdictions received \$384 million in new funding through the Wildlife Restoration and Enhanced Hunter Education and Safety programs and \$363 million in new funding through the Sport Fish Restoration program.

We published a proposed rule in the June 10, 2010, Federal Register [75 FR 32877] to revise the regulations governing 50 CFR part 80. We reviewed and considered all comments that were delivered to the Service's Division of Policy and Directives Management during a 60-day period from June 10 to August 9, 2010, and all comments that were entered on <http://www.regulations.gov> or postmarked during that period. We received 10 comments from State agencies, 2 comments from nonprofit organizations, and 2 comments from one individual. Most commenters addressed several issues, so we reorganized the issues into 33 single-issue comments. This final rule adopts the proposed rule that we published on June 10, 2010, with changes based on the comments received. We discuss these comments in the following section.

**Response to Public Comments**

We arranged the public comments under the relevant sections of the rule. Each numbered comment is from only one agency, organization, or individual unless it states otherwise. The comments summarize the recommendations or opinions as the commenter presented them. We state in the response to each comment whether we made any changes as a result of the recommendation. We also state how we changed the rule, or we refer the reader to the location of the change in the final rule.

Some public comments led us to reexamine sections beyond those that the public addressed specifically. Based on this reexamination, we made nonsubstantive changes throughout the document to improve clarity, consistency, organization, or comprehensiveness. We addressed any substantive changes that resulted from this reexamination in our responses to the comments.

We use the term "current" to refer to 50 CFR part 80 or any section or paragraph of 50 CFR part 80 that became effective after publication of a final rule in the **Federal Register** at 73 FR 43120, July 24, 2008. The term "proposed" refers to language that was in the proposed rule published in the **Federal Register** at 75 FR 32877, June 10, 2010. The term "new" refers to the language of 50 CFR part 80 as published in this final rule.

#### Subpart A—General

Section 80.2 What terms do I need to know?

*Comment 1:* Define personal property and law-enforcement activities.

*Response 1:* We defined personal property to include intellectual property and gave examples at the new § 80.2. We removed the definition of intellectual property and all examples from the proposed § 80.20. To conform to these changes for personal property, we moved the examples of real property from the proposed § 80.20(b)(1) to the definition at § 80.2. We will consider proposing a definition of law enforcement during the next revision of 50 CFR part 80, so we can receive public comments on a proposed definition.

*Comment 2:* Three commenters had concerns about the proposed definition of wildlife, which includes only birds and mammals. One commenter said that the narrow definition would cause conflicts with States that define it more broadly. Another commenter requested that we broaden the definition to include alligators. The third commenter noted the proposed definition does not include snapping turtles or bullfrogs, which are part of at least one State's hunting or sportfishing program.

*Response 2:* We did not make any changes in response to these comments. The proposed rule's definition of wildlife is specific to wild birds and mammals. This is a common element in all State definitions of wildlife, and program regulations since 1956 have limited the benefits of the Pittman-Robertson Wildlife Restoration Act (Act) to wild birds and mammals. The Act did not define wildlife in the original 1937 legislation, and none of its amendments defined wildlife for purposes of projects under the Act. Although Public Law 106-553 (December 21, 2000) amended the Act and defined wildlife, the only effects of the amendment were to authorize fiscal year 2001 funds for the Wildlife Conservation and Restoration program and to clarify the effect of the Federal Advisory Committee Act. Public Law 106-553's definition of wildlife did

not apply to projects under the Act according to section 902(f).

#### Subpart C—License Revenue

Section 80.20 What does revenue from hunting and fishing licenses include?

*Comment 3:* The opening statement in § 80.20(a) reads, "Hunting and fishing license revenue includes: (1) Proceeds that the State fish and wildlife agency receives from the sale of State-issued general or special hunting or fishing licenses \* \* \*" This is a change from the current § 80.4, which reads, "Revenues from license fees paid by hunters and fishermen are any revenues the State receives from the sale of licenses \* \* \*" This change could exclude as license revenue any license fees collected by other State agencies on behalf of the State fish and wildlife agencies.

*Response 3:* We changed the proposed § 80.20(a) to read, "All proceeds from the sale of State-issued general or special hunting and fishing licenses, permits, stamps, tags, access and use fees, and other State charges to hunt or fish for recreational purposes."

#### Subpart D—Certification of License Holders

Section 80.31 How does an agency certify the number of paid license holders?

*Comment 4:* Insert "or his or her designee" after "the director of the [State] agency" at § 80.31(b) because another individual may be responsible for submitting annual license-certification data electronically to the Service on behalf of the agency director.

*Response 4:* We changed § 80.31(b) to incorporate the recommendation.

Section 80.33 How does an agency decide who to count as paid license holders in the annual certification?

*Comment 5:* One commenter supported the language at § 80.33(a)(1) allowing States to count license holders regardless of whether the licensee engages in the activity. Two other commenters said that the State should not count license holders in the annual certification if the licensee does not hunt or fish.

*Response 5:* We did not make any changes based on this comment. Some people buy a license because they plan to hunt or fish, but never do. Others buy a license to take part in other outdoor activities on a State Wildlife Management Area where it is required for entry. Some buy a license solely to support wildlife and sport fish programs. Others buy a lifetime license as a gift for a child who is too young to

hunt or fish. The Acts require States to count the number of paid hunting- or fishing-license holders. They do not require States to count those who actually hunt or fish.

*Comment 6:* Allow a State to verify a license holder in State records using a unique identifier instead of a name. This will accommodate a State that does not record the name of certain categories of license holders, such as minors, out-of-State hunters and anglers, and individuals who do not want to give their names for religious reasons.

*Response 6:* We accepted the recommendation, but we need to ensure that the agency can associate a license holder with the unique identifier. We changed the proposed § 80.33(a) to read: "A State fish and wildlife agency must count only those people who have a license issued: (1) In the license holder's name, or (2) With a unique identifier that is traceable to the license holder, who must be verifiable in State records."

*Comment 7:* Section 80.33(a)(4) does not allow a State director to count all persons who have paid licenses to hunt or fish in the State-specified certification period. This is inconsistent with the Acts and the proposed § 80.31(a).

*Response 7:* We did not make any changes based on this comment. We use data from the annual certification of licenses to divide excise tax revenue among the States. Section 80.33 provides an equitable way to count: (a) Individuals holding licenses for a fixed period corresponding to the license-certification year, and (b) other individuals holding licenses for a period that starts on the date of purchase and ends 365 days later (variable period). A State that sells variable-period licenses should not be able to count them in two annual certification periods if a State that sells only single-year fixed-period licenses can count them in only one annual certification period.

*Comment 8:* Combination license holders should be counted as both anglers and hunters at § 80.33(a)(6) only if the State offers an option to buy a separate license to hunt or fish. If no such option exists, the State should conduct a survey or use other means to find out how many license holders intend to hunt and how many intend to fish. The same approach should apply to use permits and entrance fees for wildlife management areas, to find out how many enter to hunt or fish, and how many enter for other activities. States should count only those who hunt or fish as paid license holders.

*Response 8:* The Acts require States to count the number of paid hunting and

fishing license holders. They do not require States to count those who actually hunt or fish, so we will not require surveys as the commenter recommended.

*Comment 9:* The proposed § 80.33(b) states that, for a multiyear license to be counted in each certification period, a State fish and wildlife agency must receive \$1 per year of net revenue for each year in which the license is valid. Clarify whether the agency can count the multiyear license as a paid license if the agency spends the entire multiyear license fee immediately after receiving it. Without this clarification, an alternative interpretation is that the agency must hold the fee over the lifetime of the license so that \$1 of net revenue is available in each year that the agency will count it as a paid license.

*Response 9:* We added a new § 80.35 on requirements for multiyear licenses. Paragraph (b) of this new section addresses the commenter's concern: "The agency must receive net revenue from a multiyear license that is in close approximation to the net revenue received for a single-year license providing similar privileges:

(1) Each year during the license period, or

(2) At the time of sale as if it were a single-payment annuity, which is an investment of the license fee that shows the agency would have received at least the minimum required net revenue for each year of the license period."

Section 80.34 (new section 80.36) May an agency count license holders in the annual certification if the agency receives funds from the State to cover their license fees?

*Comment 10:* One commenter said that senior citizens in his State must pay \$11 for a license, of which the State fish and wildlife agency receives about \$9. The commenter said this \$9 in net revenue allows the State to count the license in only nine annual certification periods. He compared this to the proposed §§ 80.33(b) and 80.34 which would allow a State to provide funds to its fish and wildlife agency to cover fees normally charged for a category of license, such as senior citizens or veterans. The agency would be able to count those license holders in the annual certification for each year that the State covers the fees. The commenter said this change would potentially shift funds from States that offer low-cost licenses to those where the State covers fees normally charged for a category of license. Two other commenters opposed the proposed

§§ 80.33(b) and 80.34, and two commenters supported these sections.

*Response 10:* We did not make any changes based on this comment. If a State chooses to pay the hunting and fishing license fees for a category of its citizens, it should be able to count the license holders in the annual certification if the State and its fish and wildlife agency satisfy the conditions at the new § 80.36.

*Comment 11:* The proposed § 80.34(b) requires that any funds that a State provides to its fish and wildlife agency to cover fees for a category of license holder must equal or exceed the fees that the license holder would have paid. Why is this different from the standard at the proposed § 80.33(a)(4), which requires that the agency receive at least \$1 per year of net revenue?

*Response 11:* Licenses that provide similar privileges should not have a lower fee just because the State is paying for it. We retained this requirement with an additional clarification at the new § 80.36(d).

#### Subpart E—Eligible Activities

Section 80.50 What activities are eligible for funding under the Pittman-Robertson Wildlife Restoration Act?

*Comment 12:* Add as an eligible activity, "Obtain data to guide and direct the regulation of hunting."

*Response 12:* We added the recommended eligible activity at a new paragraph (a)(3).

*Comment 13:* The use of "or" in the proposed § 80.50(a)(4) allows funding for anything that simply provides public access. The public access should be associated with a wildlife- or habitat-management or conservation purpose.

*Response 13:* We changed the proposed § 80.50(a)(4) to read, "Acquire real property suitable or capable of being made suitable for: (i) Wildlife habitat, or (ii) Public access for hunting and other wildlife-oriented recreation." We also moved the proposed § 80.50(a)(5)(ii) to the new § 80.50(a)(6)(ii) and changed it to read, "Provide public access for hunting or other wildlife-oriented recreation."

*Comment 14:* Add coordination of grants as an eligible activity for the Wildlife and Sport Fish Restoration programs. Add technical assistance as an eligible activity for the Wildlife Restoration program.

*Response 14:* We added "Coordinate grants in the Wildlife Restoration program and related programs and subprograms" as an eligible activity for the Wildlife Restoration program at the new § 80.50(a)(8). We also added "Coordinate grants in the Sport Fish

Restoration program and related programs and subprograms" as an eligible activity for the Sport Fish Restoration program at the new § 80.51(a)(11). We did not add technical assistance because we may need to establish criteria to decide when it is appropriate, and we do not want to do this without the benefit of public comment following a proposed rule. However, the Regional Director may still approve technical assistance as an eligible activity on a case-by-case basis under the new section § 80.52, which we discuss in Response 15.

*Comment 15:* The "closed list" of eligible activities could exclude some creative projects that may be appropriate under the Act.

*Response 15:* We added a new section § 80.52 which reads: "An activity may be eligible for funding even if this part does not explicitly designate it as an eligible activity if: (a) The State fish and wildlife agency justifies in the project statement how the activity will help carry out the purposes of the Pittman-Robertson Wildlife Restoration Act or the Dingell-Johnson Sport Fish Restoration Act, and (b) The Regional Director concurs with the justification."

*Comment 16:* One commenter was pleased that the proposed rule included hunter development and recruitment as eligible for funding under the Enhanced Hunter Education and Safety program. Another commenter said that recruitment has no foundation in the Act. The commenter also said that the Service could consider marketing, promotion, and advertising that may be part of recruitment as public relations, which is an ineligible activity.

*Response 16:* We disagreed with the commenter's view that recruitment may be an ineligible activity. The Pittman-Robertson Wildlife Restoration Act at 16 U.S.C. 669h-1 specifically allows the use of funds for hunter-development programs, and recruitment may be the first phase of hunter development. We made no changes based on this comment.

*Comment 17:* The linkage that § 80.50(c)(1) makes between hunter development and target shooting is weak at best.

*Response 17:* Target shooting is an activity that develops certain hunting skills and supplements hunter education and firearm safety. We made no changes based on this comment.

*Comment 18:* The proposed rule should have said whether competitive shooting events are eligible activities and more specifically whether a grant could pay for prizes, scholarships, and awards associated with competitive shooting events.

*Response 18:* If the State fish and wildlife agency, or more typically, the subgrantee, holds the competitive shooting event for the primary purpose of producing income, the event would not be eligible for funding under the Pittman-Robertson Wildlife Restoration Act. We will consider developing Service policy on competitive events in the grant programs and subprograms authorized by the Acts. We made no changes based on this comment.

Section 80.51 What activities are eligible for funding under the Dingell-Johnson Sport Fish Restoration Act?

*Comment 19:* Add as an eligible activity for the Sport Fish Restoration program, "Stock fish for recreational purposes."

*Response 19:* We incorporated the recommendation at the new § 80.51(a)(5).

*Comment 20:* Change the second sentence at § 80.51(b)(1) so that it reads, "A broad range of access facilities and associated amenities can qualify for funding, but they must provide benefits to recreational boaters." This change will align the regulation with the language of the Act. The Service's policy at 517 FW 7.12(B) already ensures that the facilities accommodate stakeholders who buy motorboat fuels or angling gear.

*Response 20:* We changed the sentence as recommended.

Section 80.52 (80.53 in final rule) What activities are ineligible for funding?

*Comment 21:* Clarify whether wildlife damage and predator control are eligible for funding from (a) a grant in the Wildlife Restoration program, or (b) license revenue.

*Response 21:* We will consider this issue during the next revision of 50 CFR 80, so that the public will have the opportunity to offer comments. We made no changes based on this comment.

#### Subpart F—Allocation of Funds by an Agency

Section 80.60 What is the relationship between the Basic Hunter Education and Safety subprogram and the Enhanced Hunter Education and Safety program?

*Comment 22:* Explain at § 80.60(c) that the Service reapportions unobligated Enhanced Hunter Education funds to eligible States as Wildlife Restoration funds and not Hunter Education funds.

*Response 22:* We changed § 80.60(c) to incorporate this recommendation.

Section 80.66 What requirements apply to allocation of funds between marine and freshwater fisheries projects?

*Comment 23:* The proposed § 80.66(a) requires the use of a proportion based on the ratio of a State's resident marine anglers to the State's total anglers. This ratio must equal the ratio of: (a) The Sport Fish Restoration funds that the State allocates for marine projects, to (b) the total Sport Fish Restoration funds. However, some marine anglers also fish in freshwater, so a State has to allocate this overlap when developing a ratio for marine and a ratio for freshwater anglers. The Service has misinterpreted 16 U.S.C. 777(b)(1) which reads, "\* \* \* [E]ach coastal State \* \* \* shall equitably allocate amounts apportioned to such State \* \* \* between marine fish projects and freshwater fish projects in the same proportion as the estimated number of resident marine anglers and the estimated number of resident freshwater anglers, respectively, bear to the estimated number of all resident anglers in that State." This requires only a comparison of the number of marine anglers to the number of freshwater anglers in the same order as a comparison of the dollars allocated to marine projects and the dollars allocated to freshwater projects. The relationship of the numbers of the two types of anglers is a ratio, just as the relationship of the two dollar amounts is a ratio. The two ratios are in the "same proportion" as required by § 777(b)(1). The proposed rule incorrectly requires a proportion based on: (a) A comparison of the funds allocated to marine fisheries projects with the total funds allocated to marine and freshwater fisheries, and (b) a comparison of marine anglers to the total number of marine and freshwater anglers.

*Response 23:* The commenter's recommendation would make the allocation of funds simpler, but the proposed § 80.66(a) is the most reasonable interpretation of what the drafters of the legislation intended. In any case, it would not be appropriate to impose a different allocation method based on an alternative interpretation without the benefit of public review. We made no changes based on this comment, but we will review this issue before the next revision of 50 CFR 80.

#### Subpart G—Application for a Grant

Section 80.83 What is the Federal share of allowable cost?

*Comment 24:* Section 80.83(a) gives the Regional Director the discretion to reimburse allowable costs on a sliding

scale between 10 and 75 percent, but does not give guidance on how the Regional Director should make that decision.

*Response 24:* The commenter's general concern was also applicable to the other paragraphs of § 80.83. We changed the proposed § 80.83 to provide more detail on how the Regional Director decides on the Federal share.

#### Subpart I—Program Income

Section 80.120 What is program income?

*Comment 25:* Explain at the proposed § 80.120(c)(1) why hunting and fishing license revenue collected as fees for special-area access or recreation cannot be program income.

*Response 25:* We deleted the proposed § 80.120(c)(1) from the list of examples of revenue that cannot be program income. This deletion is the result of a July 2010 determination that hunter-access fees on lands leased with grant funds for public hunting may qualify as program income under certain conditions.

*Comment 26:* Explain the basis of the distinction between leases with terms greater than 10 years and leases with terms less than 10 years.

*Response 26:* Leases are legally complex. Their classification as personal or real property varies significantly among the States and even within a State depending on the type of property. The classification of a lease as real or personal property is important because it determines whether rent earned by a grantee from the lease of real property acquired under a grant is classified as program income or as proceeds from the disposition of real property. We proposed the 10-year threshold to simplify this complexity by adopting a common standard for classifying leases as real or personal property for purposes of the grant programs under the Acts. We chose 10 years because it is a commonly accepted dividing line between long-term and short-term leases, which often affects the lessees' rights and responsibilities. We will present this subject in the context of a future proposed rule that focuses on the acquisition and disposition of all types of real property under a grant. Until we can develop a proposed rule with that focus, we will rely on case-by-case legal interpretations when faced with lease-related issues. We changed the proposed § 80.120(c)(6), which is the new § 80.120(c)(5), to read, "Proceeds from the sale of real property."

Section 80.123 How may an agency use program income?

*Comment 27:* One commenter stated that we should not require State fish and wildlife agencies to obtain the Regional Director's approval of the matching method for using program income if we do not require the Regional Director's approval for other activities under a grant. This commenter and another stated that all grants qualified for use of the matching method under the criteria at § 80.123(c), and both commenters said that we should consider approving the use of the matching method without conditions or give specific guidance on when its use is appropriate. A third commenter also requested guidance on when the matching method is appropriate.

*Response 27:* The statement at § 80.123(c) that the Regional Director may approve the use of the matching method is consistent with other prior-approval requirements of this regulation. The Director has delegated the authority to conduct grant programs to the Regional Director with only a few exceptions. The definition of "Regional Director" at § 80.2 includes his or her designated representative, and Regional Directors have generally delegated most decisions on grant programs to the chiefs of their Regional Wildlife and Sport Fish Restoration Program Divisions. We will consider proposing criteria for approval of the matching method of using program income during the next revision of 50 CFR 80 so the public will have the opportunity to offer comments. We made no changes based on these comments.

#### Subpart J—Real Property

Section 80.130 Does an agency have to hold title to real property acquired under a grant?

*Comment 28:* Do not restrict a State agency's ability in § 80.130 to carry out a grant-funded project on lands to which it does not have title. States may want to use grant funds to manage wildlife on Federal lands under the terms of a cooperative agreement.

*Response 28:* Both §§ 80.130 and 80.132 relate to the commenter's concern. We based these sections on 16 U.S.C. 777g(a), 43 CFR 12.71(a) and (b), and the current regulation at § 80.20, which has been part of 50 CFR part 80 with only a minor change since 1982. The final rule does not affect an agency's ability to manage Federal lands cooperatively if this management does not include the completion of a capital improvement.

Section 80.131 Does an agency have to hold an easement acquired under a grant?

*Comment 29:* Replace "subgrantee" with "third party" because "subgrant" implies that grant funding passes to a subgrantee for use at the subgrantee's discretion.

*Response 29:* A subgrantee is an entity that receives an award of money or property. A subgrantee is accountable to the grantee for the use of the money or property (see definitions of subgrant and subgrantee at 43 CFR 12.43). The proposed § 80.131(b) allows the grantee to subgrant only a concurrent right to hold the easement or a right of enforcement. The grantee will be able to set the terms of the subgrant agreement and ensure that the subgrantee's right will not supersede and will be concurrent with the agency's right of enforcement. Since a third party is not necessarily a subgrantee, the grantee may not be able to set the terms of any agreement on the right of enforcement or a concurrent right to hold the easement. We made no changes based on this comment.

*Comment 30:* Define "concurrent right to hold."

*Response 30:* We defined the term at the new § 80.131(b)(2).

Section 80.132 Does an agency have to control the land or water where it completes capital improvements?

See Comments 31 and 32 and our responses.

Section 80.134 How must an agency use real property?

*Comment 31:* Instead of requiring a grantee to use real property for the uses in the grant, the regulation should state that the property must continue to serve the purpose of the grant and must be used for the administration of the fish and wildlife programs.

*Response 31:* The new § 80.134(a) states, "If a grant funds acquisition of an interest in a parcel of land or water, the State fish and wildlife agency must use it for the purpose authorized in the grant." The requirement to use property for the administration of fish and wildlife programs applies only if: (a) The administration of fish and wildlife programs is a purpose of the grant-funded project that acquired, completed, operated, or maintained the real property; or (b) license revenue funded all or part of the project [see the proposed 50 CFR 80.10(c)(2)]. We made no changes based on this comment.

*Comment 32:* Clarify that grant projects on property other than that acquired with grant funds fall within the requirements of § 80.134.

*Response 32:* The comment applies to § 80.132 as well as § 80.134. We changed §§ 80.132 and 80.134 to incorporate the recommendation and to clarify in § 80.134 the differences in use requirements for specific types of grant-funded projects.

Section 80.137 What if real property is no longer useful or needed for its original purpose?

*Comment 33:* The proposed § 80.137 says that if a State fish and wildlife agency's director and the Service's Regional Director jointly decide that grant-funded real property is no longer useful or needed for its original purpose, the State agency's director may request disposition instructions. Provide guidance on how the Service and State agency will cooperatively formulate these instructions.

*Response 33:* We changed the proposed § 80.137(b) so that it reads: "Request disposition instructions for the real property under the process described at 43 CFR 12.71, 'Administrative and Audit Requirements and Cost Principles for Assistance Programs.'"

#### Required Determinations

##### *Regulatory Planning and Review (E.O. 12866)*

The Office of Management and Budget (OMB) has determined that this rule is not significant and has not reviewed this rule under E.O. 12866. OMB bases its determination on the following four criteria:

- a. Whether the rule will have an annual effect of \$100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government.
- b. Whether the rule will create inconsistencies with other Federal agencies' actions.
- c. Whether the rule will materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.
- d. Whether the rule raises novel legal or policy issues.

##### *Regulatory Flexibility Act (5 U.S.C. 601 et seq.)*

The Regulatory Flexibility Act requires an agency to consider the impact of final rules on small entities, *i.e.*, small businesses, small organizations, and small government jurisdictions. If there is a significant economic impact on a substantial number of small entities, the agency must perform a Regulatory Flexibility Analysis. This is not required if the

head of an agency certifies the rule would not have a significant economic impact on a substantial number of small entities. The Small Business Regulatory Enforcement Fairness Act (SBREFA) amended the Regulatory Flexibility Act to require Federal agencies to state the factual basis for certifying that a rule would not have a significant economic impact on a substantial number of small entities.

We have examined this final rule's potential effects on small entities as required by the Regulatory Flexibility Act. We have determined that the changes in the final rule will not have a significant impact and do not require a Regulatory Flexibility Analysis because the changes:

a. Give information to State fish and wildlife agencies that allows them to apply for and administer grants more easily, more efficiently, and with greater flexibility. Only State fish and wildlife agencies may receive grants in the three programs affected by this regulation, but small entities sometimes voluntarily become subgrantees of agencies. Any impact on these subgrantees would be beneficial.

b. Address changes in law and regulation. This rule helps grant applicants and recipients by making the regulations consistent with current standards. Any impact on small entities that voluntarily become subgrantees of agencies would be beneficial.

c. Change three provisions on license certification adopted in a final rule published on July 24, 2008, based on subsequent experience. These changes would impact only agencies and not small entities.

d. Clarify additional issues in the Pittman-Robertson Wildlife Restoration Act and Dingell-Johnson Sport Fish Restoration Act. This clarification will help agencies comply with statutory requirements and increase awareness of alternatives available under the law. Any impact on small entities that voluntarily become subgrantees of agencies would be beneficial.

e. Clarify that (1) cooperative, farming or grazing arrangements and (2) sales receipts retained by concessioners or contractors are not program income. This clarification allows States to expand projects with small businesses and farmers without making these cooperative arrangements or sales receipts subject to program income restrictions. This clarification would be potentially beneficial to the small entities that voluntarily become cooperative farmers, cooperative ranchers, and concessioners.

f. Add information that allows States to enter into agreements with nonprofit

organizations to share rights or responsibilities for easements acquired under grants for the mutual benefit of both parties. This addition would benefit the small entities that enter into these agreements voluntarily.

g. Reword and reorganize the regulation to make it easier to understand. Any impact on the small entities that voluntarily become subgrantees of agencies would be beneficial.

The Service has determined that the changes primarily impact State governments. The small entities affected by the changes are primarily concessioners, cooperative farmers, cooperative ranchers, and subgrantees who voluntarily enter into mutually beneficial relationships with an agency. The impact on small entities would be very limited and beneficial in all cases.

Consequently, we certify that because this final rule would not have a significant economic effect on a substantial number of small entities, a Regulatory Flexibility Analysis is not required.

In addition, this final rule is not a major rule under SBREFA (5 U.S.C. 804(2)) and would not have a significant impact on a substantial number of small entities because it does not:

a. Have an annual effect on the economy of \$100 million or more.

b. Cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions.

c. Have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

#### *Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. Ch. 25; Pub. L. 104-4) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. The Act requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of a final rule with Federal mandates that may result in the expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. We have determined the following under the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

a. As discussed in the determination for the Regulatory Flexibility Act, this final rule would not have a significant

economic effect on a substantial number of small entities.

b. The regulation does not require a small government agency plan or any other requirement for expenditure of local funds.

c. The programs governed by the current regulations and enhanced by the changes potentially assist small governments financially when they occasionally and voluntarily participate as subgrantees of an agency.

d. The final rule clarifies and enhances the current regulations allowing State, local, and tribal governments, and the private sector to receive the benefits of grant funding in a more flexible, efficient, and effective manner. They may receive these benefits as a subgrantee of a State fish and wildlife agency, a cooperating farmer or rancher, a concessioner, a concurrent holder of a grant-acquired easement, or a holder of enforcement rights under an easement.

e. Any costs incurred by a State, local, and tribal government, or the private sector are voluntary. There are no mandated costs associated with the final rule.

f. The benefits of grant funding outweigh the costs. The Federal Government provides up to 75 percent of the cost of each grant to the 50 States in the three programs affected by the final rule. The Federal Government may also provide up to 100 percent of the cost of each grant to the Commonwealths of Puerto Rico and the Northern Mariana Islands, the District of Columbia, and the territories of Guam, the U.S. Virgin Islands, and American Samoa. All 50 States and other eligible jurisdictions voluntarily apply for grants in these programs each year. This rate of participation is clear evidence that the benefits of grant funding outweigh the costs.

g. This final rule would not produce a Federal mandate of \$100 million or greater in any year, i.e., it is not a "significant regulatory action" under the Unfunded Mandates Reform Act.

#### *Takings*

This final rule does not have significant takings implications under E.O. 12630 because it does not have a provision for taking private property. Therefore, a takings implication assessment is not required.

#### *Federalism*

This final rule does not have sufficient Federalism effects to warrant preparation of a Federalism assessment under E.O. 13132. It will not interfere with the States' ability to manage themselves or their funds. We work



closely with the States in administration of these programs, and they helped us identify those sections of the current regulations in need of change and new issues in need of clarification through regulation. In drafting the final rule, we received comments from committees of the Association of Fish and Wildlife Agencies and from the Joint Federal/State Task Force on Federal Assistance Policy. The Director of the U.S. Fish and Wildlife Service and the President of the Association of Fish and Wildlife Agencies jointly chartered the Joint Federal/State Task Force on Federal Assistance Policy in 2002 to identify issues of national concern in the three grant programs affected by the final rule.

#### *Civil Justice Reform*

The Office of the Solicitor has determined under E.O. 12988 that the rule would not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. The final rule will benefit grantees because it:

- a. Updates the regulations to reflect changes in policy and practice during the past 25 years;
- b. Makes the regulations easier to use and understand by improving the organization and using plain language;
- c. Modifies four provisions in the final rule to amend 50 CFR part 80 published in the *Federal Register* at 73 FR 43120 on July 24, 2008, based on subsequent experience; and
- d. Addresses four new issues that State fish and wildlife agencies raised in response to the proposed rule to amend 50 CFR part 80 published in the *Federal Register* at 73 FR 24523, May 5, 2008.

#### *Paperwork Reduction Act*

We examined the final rule under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). We may not collect or sponsor and you are not required to respond to a collection of information unless it displays a current OMB control number. The final rule at 50 CFR 80.160 describes eight information collections. All of these collections request information from State fish and wildlife agencies, and all have current OMB control numbers.

OMB authorized and approved Governmentwide standard forms for four of the eight information collections. These four information collections are for the purposes of: (a) Application for a grant; (b) assurances related to authority, capability, and legal compliance for nonconstruction programs, (c) assurances related to authority, capability, and legal compliance for construction programs;

and (d) reporting on the use of Federal funds, match, and program income.

OMB approved three other information collections in the final rule under control number 1018-0109, but has not approved Governmentwide standard forms for these collections. The purposes of these information collections are to provide the Service with: (a) A project statement in support of a grant application, (b) a report on progress in completing a grant-funded project, and (c) a request to approve an update or another change in information provided in a previously approved application. OMB authorized these information collections in its Circular A-102.

The Acts and the current 50 CFR 80.10 authorize the eighth information collection. This collection allows the Service to learn the number of people who have a paid license to hunt and the number of people who have a paid license to fish in each State during a State-specified certification year. The Service uses this information in statutory formulas to apportion funds in the Wildlife Restoration and Sport Fish Restoration programs among the States. OMB approved this information collection on forms FWS 3-154a and 3-154b under control number 1018-0007. The final rule does not change the information required on forms FWS 3-154a and 3-154b. It merely establishes a common approach for States to assign license holders to a certification year.

#### *National Environmental Policy Act*

We have analyzed this rule under the National Environmental Policy Act, 42 U.S.C. 432-437(f) and part 516 of the Departmental Manual. This rule does not constitute a major Federal action significantly affecting the quality of the human environment. An environmental impact statement/assessment is not required due to the categorical exclusion for administrative changes provided at 516 DM 8.5A(3).

#### *Government-to-Government Relationship With Tribes*

We have evaluated potential effects on federally recognized Indian tribes under the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), E.O. 13175, and 512 DM 2. We have determined that there are no potential effects. This final rule will not interfere with the tribes' ability to manage themselves or their funds.

#### *Energy Supply, Distribution, or Use (E.O. 13211)*

E.O. 13211 addresses regulations that significantly affect energy supply, distribution, and use and requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule is not a significant regulatory action under E.O. 12866 and will not affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

#### **List of Subjects in 50 CFR Part 80**

Education, Fish, Fishing, Grants administration, Grant programs, Hunting, Natural resources, Real property acquisition, Recreation and recreation areas, Signs and symbols, Wildlife.

#### **Final Regulation Promulgation**

For the reasons discussed in the preamble, we amend title 50 of the Code of Federal Regulations, chapter I, subchapter F, by revising part 80 to read as set forth below:

#### **Title 50—Wildlife and Fisheries**

#### **PART 80—ADMINISTRATIVE REQUIREMENTS, PITTMAN-ROBERTSON WILDLIFE RESTORATION AND DINGELL-JOHNSON SPORT FISH RESTORATION ACTS**

##### **Subpart A—General**

Sec.

- 80.1 What does this part do?
- 80.2 What terms do I need to know?

##### **Subpart B—State Fish and Wildlife Agency Eligibility**

- 80.10 Who is eligible to receive the benefits of the Acts?
- 80.11 How does a State become ineligible to receive the benefits of the Acts?
- 80.12 Does an agency have to confirm that it wants to receive an annual apportionment of funds?

##### **Subpart C—License Revenue**

- 80.20 What does revenue from hunting and fishing licenses include?
- 80.21 What if a State diverts license revenue from the control of its fish and wildlife agency?
- 80.22 What must a State do to resolve a declaration of diversion?
- 80.23 Does a declaration of diversion affect a previous Federal obligation of funds?

##### **Subpart D—Certification of License Holders**

- 80.30 Why must an agency certify the number of paid license holders?
- 80.31 How does an agency certify the number of paid license holders?
- 80.32 What is the certification period?

- 80.33 How does an agency decide who to count as paid license holders in the annual certification?
- 80.34 How does an agency calculate net revenue from a license?
- 80.35 What additional requirements apply to multiyear licenses?
- 80.36 May an agency count license holders in the annual certification if the agency receives funds from the State to cover their license fees?
- 80.37 What must an agency do if it becomes aware of errors in its certified license data?
- 80.38 May the Service recalculate an apportionment if an agency submits revised data?
- 80.39 May the Director correct a Service error in apportioning funds?

#### Subpart E—Eligible Activities

- 80.50 What activities are eligible for funding under the Pittman-Robertson Wildlife Restoration Act?
- 80.51 What activities are eligible for funding under the Dingell-Johnson Sport Fish Restoration Act?
- 80.52 May an activity be eligible for funding if it is not explicitly eligible in this part?
- 80.53 Are costs of State central services eligible for funding?
- 80.54 What activities are ineligible for funding?
- 80.55 May an agency receive a grant to carry out part of a larger project?
- 80.56 How does a proposed project qualify as substantial in character and design?

#### Subpart F—Allocation of Funds by an Agency

- 80.60 What is the relationship between the Basic Hunter Education and Safety subprogram and the Enhanced Hunter Education and Safety program?
- 80.61 What requirements apply to funds for the Recreational Boating Access subprogram?
- 80.62 What limitations apply to spending on the Aquatic Resource Education and the Outreach and Communications subprograms?
- 80.63 Does an agency have to allocate costs in multipurpose projects and facilities?
- 80.64 How does an agency allocate costs in multipurpose projects and facilities?
- 80.65 Does an agency have to allocate funds between marine and freshwater fisheries projects?
- 80.66 What requirements apply to allocation of funds between marine and freshwater fisheries projects?
- 80.67 May an agency finance an activity from more than one annual apportionment?
- 80.68 What requirements apply to financing an activity from more than one annual apportionment?

#### Subpart G—Application for a Grant

- 80.80 How does an agency apply for a grant?
- 80.81 What must an agency submit when applying for a comprehensive-management-system grant?
- 80.82 What must an agency submit when applying for a project-by-project grant?

- 80.83 What is the Federal share of allowable costs?
- 80.84 How does the Service establish the non-Federal share of allowable costs?
- 80.85 What requirements apply to match?

#### Subpart H—General Grant Administration

- 80.90 What are the grantee's responsibilities?
- 80.91 What is a Federal obligation of funds and how does it occur?
- 80.92 How long are funds available for a Federal obligation?
- 80.93 When may an agency incur costs under a grant?
- 80.94 May an agency incur costs before the beginning of the grant period?
- 80.95 How does an agency receive Federal grant funds?
- 80.96 May an agency use Federal funds without using match?
- 80.97 May an agency barter goods or services to carry out a grant-funded project?
- 80.98 How must an agency report barter transactions?
- 80.99 Are symbols available to identify projects?
- 80.100 Does an agency have to display one of the symbols in this part on a completed project?

#### Subpart I—Program Income

- 80.120 What is program income?
- 80.121 May an agency earn program income?
- 80.122 May an agency deduct the costs of generating program income from gross income?
- 80.123 How may an agency use program income?
- 80.124 How may an agency use unexpended program income?
- 80.125 How must an agency treat income that it earns after the grant period?
- 80.126 How must an agency treat income earned by a subgrantee after the grant period?

#### Subpart J—Real Property

- 80.130 Does an agency have to hold title to real property acquired under a grant?
- 80.131 Does an agency have to hold an easement acquired under a grant?
- 80.132 Does an agency have to control the land or water where it completes capital improvements?
- 80.133 Does an agency have to maintain acquired or completed capital improvements?
- 80.134 How must an agency use real property?
- 80.135 What if an agency allows a use of real property that interferes with its authorized purpose?
- 80.136 Is it a diversion if an agency does not use grant-acquired real property for its authorized purpose?
- 80.137 What if real property is no longer useful or needed for its original purpose?

#### Subpart K—Revisions and Appeals

- 80.150 How does an agency ask for revision of a grant?
- 80.151 May an agency appeal a decision?

#### Subpart L—Information Collection

- 80.160 What are the information collection requirements of this part?

Authority: 16 U.S.C. 669–669k; 16 U.S.C. 777–777n, except 777e–1 and g–1.

#### Subpart A—General

##### § 80.1 What does this part do?

This part of the Code of Federal Regulations tells States how they may:

(a) Use revenues derived from State hunting and fishing licenses in compliance with the Acts.

(b) Receive annual apportionments from the Federal Aid to Wildlife Restoration Fund (16 U.S.C. 669(b)), if authorized, and the Sport Fish Restoration and Boating Trust Fund (26 U.S.C. 9504).

(c) Receive financial assistance from the Wildlife Restoration program, the Basic Hunter Education and Safety subprogram, and the Enhanced Hunter Education and Safety grant program, if authorized.

(d) Receive financial assistance from the Sport Fish Restoration program, the Recreational Boating Access subprogram, the Aquatic Resources Education subprogram, and the Outreach and Communications subprogram.

(e) Comply with the requirements of the Acts.

##### § 80.2 What terms do I need to know?

The terms in this section pertain only to the regulations in this part.

*Acts* means the Pittman-Robertson Wildlife Restoration Act of September 2, 1937, as amended (16 U.S.C. 669–669k), and the Dingell-Johnson Sport Fish Restoration Act of August 9, 1950, as amended (16 U.S.C. 777–777n, except 777e–1 and g–1).

*Agency* means a State fish and wildlife agency.

*Angler* means a person who fishes for sport fish for recreational purposes as permitted by State law.

*Capital improvement.* (1) *Capital improvement* means:

(i) A structure that costs at least \$10,000 to build; or

(ii) The alteration, renovation, or repair of a structure if it increases the structure's useful life or its market value by at least \$10,000.

(2) An agency may use its own definition of capital improvement if its definition includes all capital improvements as defined here.

*Comprehensive management system* is a State fish and wildlife agency's method of operations that links programs, financial systems, human resources, goals, products, and services. It assesses the current, projected, and

desired status of fish and wildlife; it develops a strategic plan and carries it out through an operational planning process; and it evaluates results. The planning period is at least 5 years using a minimum 15-year projection of the desires and needs of the State's citizens. A comprehensive-management-system grant funds all or part of a State's comprehensive management system.

**Construction** means the act of building or significantly renovating, altering, or repairing a structure. Acquiring, clearing, and reshaping land and demolishing structures are types or phases of construction. Examples of structures are buildings, roads, parking lots, utility lines, fences, piers, wells, pump stations, ditches, dams, dikes, water-control structures, fish-hatchery raceways, and shooting ranges.

**Director** means:

- (1) The person whom the Secretary:
  - (i) Appointed as the chief executive official of the U.S. Fish and Wildlife Service, and
  - (ii) Delegated authority to administer the Acts nationally; or
- (2) A deputy or another person authorized temporarily to administer the Acts nationally.

**Diversion** means any use of revenue from hunting and fishing licenses for a purpose other than administration of the State fish and wildlife agency.

**Fee interest** means the right to possession, use, and enjoyment of a parcel of land or water for an indefinite period. A fee interest, as used in this part, may be the:

- (1) Fee simple, which includes all possible interests or rights that a person can hold in a parcel of land or water; or
- (2) Fee with exceptions to title, which excludes one or more real property interests that would otherwise be part of the fee simple.

**Grant** means an award of money, the principal purpose of which is to transfer funds or property from a Federal agency to a grantee to support or stimulate an authorized public purpose under the Acts. This part uses the term grant for both a grant and a cooperative agreement for convenience of reference. This use does not affect the legal distinction between the two instruments. The meaning of grant in the terms *grant funds*, *grant-funded*, *under a grant*, and *under the grant* includes the matching cash and any matching in-kind contributions in addition to the Federal award of money.

**Grantee** means the State fish and wildlife agency that applies for the grant and carries out grant-funded activities in programs authorized by the Acts. The State fish and wildlife agency acts on behalf of the State government, which is

the legal entity and is accountable for the use of Federal funds, matching funds, and matching in-kind contributions.

**Lease** means an agreement in which the owner of a fee interest transfers to a lessee the right of exclusive possession and use of an area of land or water for a fixed period, which may be renewable. The lessor cannot readily revoke the lease at his or her discretion. The lessee pays rent periodically or as a single payment. The lessor must be able to regain possession of the lessee's interest (*leasehold interest*) at the end of the lease term. An agreement that does not correspond to this definition is not a lease even if it is labeled as one.

**Match** means the value of any non-Federal in-kind contributions and the portion of the costs of a grant-funded project or projects not borne by the Federal Government.

**Personal property** means anything tangible or intangible that is not real property.

(1) Tangible personal property includes:

- (i) Objects, such as equipment and supplies, that are moveable without substantive damage to the land or any structure to which they may be attached;
- (ii) Soil, rock, gravel, minerals, gas, oil, or water after excavation or extraction from the surface or subsurface;
- (iii) Commodities derived from trees or other vegetation after harvest or separation from the land; and
- (iv) Annual crops before or after harvest.

(2) Intangible personal property includes:

- (i) Intellectual property, such as patents or copyrights;
- (ii) Securities, such as bonds and interest-bearing accounts; and
- (iii) Licenses, which are personal privileges to use an area of land or water with at least one of the following attributes:

(A) Are revocable at the landowner's discretion;

(B) Terminate when the landowner dies or the area of land or water passes to another owner; or

(C) Do not transfer a right of exclusive use and possession of an area of land or water.

**Project** means one or more related undertakings in a project-by-project grant that are necessary to fulfill a need or needs, as defined by a State fish and wildlife agency, consistent with the purposes of the appropriate Act. For convenience of reference in this part, the meaning of project includes an agency's fish and wildlife program

under a comprehensive management system grant.

**Project-by-project grant** means an award of money based on a detailed statement of a project or projects and other supporting documentation.

**Real property** means one, several, or all interests, benefits, and rights inherent in the ownership of a parcel of land or water. Examples of real property include fee and leasehold interests, conservation easements, and mineral rights.

(1) A parcel includes (unless limited by its legal description) the air space above the parcel, the ground below it, and anything physically and firmly attached to it by a natural process or human action. Examples include standing timber, other vegetation (except annual crops), buildings, roads, fences, and other structures.

(2) A parcel may also have rights attached to it by a legally prescribed procedure. Examples include water rights or an access easement that allows the parcel's owner to travel across an adjacent parcel.

(3) The legal classification of an interest, benefit, or right depends on its attributes rather than the name assigned to it. For example, a grazing "lease" is often a type of personal property known as a license, which is described in the definition of personal property in this section.

**Regional Director** means the person appointed by the Director to be the chief executive official of one of the Service's geographic Regions, or a deputy or another person temporarily authorized to exercise the authority of the chief executive official of one of the Service's geographic Regions. This person's responsibility does not extend to any administrative units that the Service's Washington Office supervises directly in that geographic Region.

**Secretary** means the person appointed by the President to direct the operation of the Department of the Interior, or a deputy or another person who is temporarily authorized to direct the operation of the Department.

**Service** means the U.S. Fish and Wildlife Service.

**Sport fish** means aquatic, gill-breathing, vertebrate animals with paired fins, having material value for recreation in the marine and fresh waters of the United States.

**State** means any State of the United States, the Commonwealths of Puerto Rico and the Northern Mariana Islands, and the territories of Guam, the U.S. Virgin Islands, and American Samoa. **State** also includes the District of Columbia for purposes of the Dingell-Johnson Sport Fish Restoration Act, the

Sport Fish Restoration program, and its subprograms. *State* does not include the District of Columbia for purposes of the Pittman-Robertson Wildlife Restoration Act and the programs and subprogram under the Act because the Pittman-Robertson Wildlife Restoration Act does not authorize funding for the District. References to "the 50 States" apply only to the 50 States of the United States and do not include the Commonwealths of Puerto Rico and the Northern Mariana Islands, the District of Columbia, or the territories of Guam, the U.S. Virgin Islands, and American Samoa.

*State fish and wildlife agency* means the administrative unit designated by State law or regulation to carry out State laws for management of fish and wildlife resources. If an agency has other jurisdictional responsibilities, the agency is considered the State fish and wildlife agency only when exercising responsibilities specific to management of the State's fish and wildlife resources.

*Subaccount* means a record of financial transactions for groups of similar activities based on programs and subprograms. Each group has a unique number. Different subaccounts also distinguish between benefits to marine or freshwater fisheries in the programs and subprograms authorized by the Dingell-Johnson Sport Fish Restoration Act.

*Useful life* means the period during which a federally funded capital improvement is capable of fulfilling its intended purpose with adequate routine maintenance.

*Wildlife* means the indigenous or naturalized species of birds or mammals that are either:

- (1) Wild and free-ranging;
- (2) Held in a captive breeding program established to reintroduce individuals of a depleted indigenous species into previously occupied range; or
- (3) Under the jurisdiction of a State fish and wildlife agency.

#### **Subpart B—State Fish and Wildlife Agency Eligibility**

##### **§ 80.10 Who is eligible to receive the benefits of the Acts?**

States acting through their fish and wildlife agencies are eligible for benefits of the Acts only if they pass and maintain legislation that:

- (a) Assents to the provisions of the Acts;
- (b) Ensures the conservation of fish and wildlife; and
- (c) Requires that revenue from hunting and fishing licenses be:
  - (1) Controlled only by the State fish and wildlife agency; and

- (2) Used only for administration of the State fish and wildlife agency, which includes only the functions required to manage the agency and the fish- and wildlife-related resources for which the agency has authority under State law.

##### **§ 80.11 How does a State become ineligible to receive the benefits of the Acts?**

A State becomes ineligible to receive the benefits of the Acts if it:

- (a) Fails materially to comply with any law, regulation, or term of a grant as it relates to acceptance and use of funds under the Acts;
- (b) Does not have legislation required at § 80.10 or passes legislation contrary to the Acts; or
- (c) Diverts hunting and fishing license revenue from:
  - (1) The control of the State fish and wildlife agency; or
  - (2) Purposes other than the agency's administration.

##### **§ 80.12 Does an agency have to confirm that it wants to receive an annual apportionment of funds?**

No. However, if a State fish and wildlife agency does not want to receive the annual apportionment of funds, it must notify the Service in writing within 60 days after receiving a preliminary certificate of apportionment.

#### **Subpart C—License Revenue**

##### **§ 80.20 What does revenue from hunting and fishing licenses include?**

Hunting and fishing license revenue includes:

- (a) All proceeds from State-issued general or special hunting and fishing licenses, permits, stamps, tags, access and use fees, and other State charges to hunt or fish for recreational purposes. Revenue from licenses sold by vendors is net income to the State after deducting reasonable sales fees or similar amounts retained by vendors.
- (b) Real or personal property acquired with license revenue.
- (c) Income from the sale, lease, or rental of, granting rights to, or a fee for access to real or personal property acquired or constructed with license revenue.
- (d) Income from the sale, lease, or rental of, granting rights to, or a fee for access to a recreational opportunity, product, or commodity derived from real or personal property acquired, managed, maintained, or produced by using license revenue.
- (e) Interest, dividends, or other income earned on license revenue.
- (f) Reimbursements for expenditures originally paid with license revenue.

- (g) Payments received for services funded by license revenue.

##### **§ 80.21 What if a State diverts license revenue from the control of its fish and wildlife agency?**

The Director may declare a State to be in diversion if it violates the requirements of § 80.10 by diverting license revenue from the control of its fish and wildlife agency to purposes other than the agency's administration. The State is then ineligible to receive benefits under the relevant Act from the date the Director signs the declaration until the State resolves the diversion. Only the Director may declare a State to be in diversion, and only the Director may rescind the declaration.

##### **§ 80.22 What must a State do to resolve a declaration of diversion?**

The State must complete the actions in paragraphs (a) through (e) of this section to resolve a declaration of diversion. The State must use a source of funds other than license revenue to fund the replacement of license revenue.

- (a) If necessary, the State must enact adequate legislative prohibitions to prevent diversions of license revenue.
- (b) The State fish and wildlife agency must replace all diverted cash derived from license revenue and the interest lost up to the date of repayment. It must enter into State records the receipt of this cash and interest.

- (c) The agency must receive either the revenue earned from diverted property during the period of diversion or the current market rental rate of any diverted property, whichever is greater.

- (d) The agency must take one of the following actions to resolve a diversion of real, personal, or intellectual property:

- (1) Regain management control of the property, which must be in about the same condition as before diversion;
- (2) Receive replacement property that meets the criteria in paragraph (e) of this section; or
- (3) Receive a cash amount at least equal to the current market value of the diverted property only if the Director agrees that the actions described in paragraphs (d)(1) and (d)(2) of this section are impractical.

- (e) To be acceptable under paragraph (d)(2) of this section:

- (1) Replacement property must have both:
  - (i) Market value that at least equals the current market value of the diverted property; and
  - (ii) Fish or wildlife benefits that at least equal those of the property diverted.

(2) The Director must agree that the replacement property meets the requirements of paragraph (e)(1) of this section.

**§ 80.23 Does a declaration of diversion affect a previous Federal obligation of funds?**

No. Federal funds obligated before the date that the Director declares a diversion remain available for expenditure without regard to the intervening period of the State's ineligibility. See § 80.91 for when a Federal obligation occurs.

**Subpart D—Certification of License Holders**

**§ 80.30 Why must an agency certify the number of paid license holders?**

A State fish and wildlife agency must certify the number of people having paid licenses to hunt and paid licenses to fish because the Service uses these data in statutory formulas to apportion funds in the Wildlife Restoration and Sport Fish Restoration programs among the States.

**§ 80.31 How does an agency certify the number of paid license holders?**

(a) A State fish and wildlife agency certifies the number of paid license

holders by responding to the Director's annual request for the following information:

(1) The number of people who have paid licenses to hunt in the State during the State-specified certification period (certification period); and

(2) The number of people who have paid licenses to fish in the State during the certification period.

(b) The agency director or his or her designee:

(1) Must certify the information at paragraph (a) of this section in the format that the Director specifies;

(2) Must provide documentation to support the accuracy of this information at the Director's request;

(3) Is responsible for eliminating multiple counting of the same individuals in the information that he or she certifies; and

(4) May use statistical sampling, automated record consolidation, or other techniques approved by the Director for this purpose.

(c) If an agency director uses statistical sampling to eliminate multiple counting of the same individuals, he or she must ensure that the sampling is complete by the earlier of the following:

(1) Five years after the last statistical sample; or

(2) Before completing the first certification following any change in the licensing system that could affect the number of license holders.

**§ 80.32 What is the certification period?**

A certification period must:

(a) Be 12 consecutive months;

(b) Correspond to the State's fiscal year or license year;

(c) Be consistent from year to year unless the Director approves a change; and

(d) End at least 1 year and no more than 2 years before the beginning of the Federal fiscal year in which the apportioned funds first become available for expenditure.

**§ 80.33 How does an agency decide who to count as paid license holders in the annual certification?**

(a) A State fish and wildlife agency must count only those people who have a license issued:

(1) In the license holder's name; or

(2) With a unique identifier that is traceable to the license holder, who must be verifiable in State records.

(b) An agency must follow the rules in this table in deciding how to count license holders in the annual certification:

Type of license holder	How to count each license holder
(1) A person who has either a paid hunting license or a paid sportfishing license even if the person is not required to have a paid license or is unable to hunt or fish.	Once.
(2) A person who has more than one paid hunting license because the person either voluntarily obtained them or was required to have more than one license.	Once.
(3) A person who has more than one paid sportfishing license because the person either voluntarily obtained them or was required to have more than one license.	Once.
(4) A person who has a paid single-year hunting license or a paid single-year sportfishing license for which the agency receives at least \$1 of net revenue. (Single-year licenses are valid for any length of time less than 2 years.)	Once in the certification period in which the license first becomes valid.
(5) A person who has a paid multiyear hunting license or a paid multiyear sportfishing license for which the agency receives at least \$1 of net revenue for each year in which the license is valid. (Multiyear licenses must also meet the requirements at § 80.35.)	Once in each certification period in which the license is valid.
(6) A person holding a paid single-year combination license permitting both hunting and sportfishing for which the agency receives at least \$2 of net revenue.	Twice in the first certification period in which the license is valid: once as a person who has a paid hunting license, and once as a person who has a paid sportfishing license.
(7) A person holding a paid multiyear combination license permitting both hunting and sportfishing for which the agency receives at least \$2 of net revenue for each year in which the license is valid. (Multiyear licenses must also meet the requirements in § 80.35.)	Twice in each certification period in which the license is valid; once as a person who has a paid hunting license, and once as a person who has a paid sportfishing license.
(8) A person who has a license that allows the license holder only to trap animals or only to engage in commercial fishing or other commercial activities.	Cannot be counted.

**§ 80.34 How does an agency calculate net revenue from a license?**

The State fish and wildlife agency must calculate net revenue from a license by subtracting the per-license

costs of issuing the license from the revenue generated by the license. Examples of costs of issuing licenses are vendors' fees, automated license-system costs, licensing-unit personnel costs,

and the costs of printing and distribution.

**§ 80.35 What additional requirements apply to multiyear licenses?**

The following additional requirements apply to multiyear licenses:

(a) A multiyear license may be valid for either a specific or indeterminate number of years, but it must be valid for at least 2 years.

(b) The agency must receive net revenue from a multiyear license that is in close approximation to the net revenue received for a single-year license providing similar privileges:

(1) Each year during the license period; or  
(2) At the time of sale as if it were a single-payment annuity, which is an investment of the license fee that results in the agency receiving at least the minimum required net revenue for each year of the license period.

(c) An agency may spend a multiyear license fee as soon as the agency receives it as long as the fee provides the minimum required net revenue for the license period.

(d) The agency must count only the licenses that meet the minimum required net revenue for the license period based on:

(1) The duration of the license in the case of a multiyear license with a specified ending date; or  
(2) Whether the license holder remains alive.

(e) The agency must obtain the Director's approval of its proposed technique to decide how many multiyear-license holders remain alive in the certification period. Some examples of techniques are statistical sampling, life-expectancy tables, and mortality tables.

**§ 80.36 May an agency count license holders in the annual certification if the agency receives funds from the State to cover their license fees?**

If a State fish and wildlife agency receives funds from the State to cover fees for some license holders, the agency may count those license holders in the annual certification only under the following conditions:

(a) The State funds to cover license fees must come from a source other than hunting- and fishing-license revenue.

(b) The State must identify funds to cover license fees separately from other funds provided to the agency.

(c) The agency must receive at least the average amount of State-provided discretionary funds that it received for the administration of the State's fish and wildlife agency during the State's five previous fiscal years.

(1) State-provided discretionary funds are those from the State's general fund

that the State may increase or decrease if it chooses to do so.

(2) Some State-provided funds are from special taxes, trust funds, gifts, bequests, or other sources specifically dedicated to the support of the State fish and wildlife agency. These funds typically fluctuate annually due to interest rates, sales, or other factors. They are not discretionary funds for purposes of this part as long as the State does not take any action to reduce the amount available to its fish and wildlife agency.

(d) The agency must receive State funds that are at least equal to the fees charged for the single-year license providing similar privileges. If the State does not have a single-year license providing similar privileges, the Director must approve the fee paid by the State for those license holders.

(e) The agency must receive and account for the State funds as license revenue.

(f) The agency must issue licenses in the license holder's name or by using a unique identifier that is traceable to the license holder, who must be verifiable in State records.

(g) The license fees must meet all other requirements of 50 CFR 80.

**§ 80.37 What must an agency do if it becomes aware of errors in its certified license data?**

A State fish and wildlife agency must submit revised certified data on paid license holders within 90 days after it becomes aware of errors in its certified data. The State may become ineligible to participate in the benefits of the relevant Act if it becomes aware of errors in its certified data and does not resubmit accurate certified data within 90 days.

**§ 80.38 May the Service recalculate an apportionment if an agency submits revised data?**

The Service may recalculate an apportionment of funds based on revised certified license data under the following conditions:

(a) If the Service receives revised certified data for a pending apportionment before the Director approves the final apportionment, the Service may recalculate the pending apportionment.

(b) If the Service receives revised certified data for an apportionment after the Director has approved the final version of that apportionment, the Service may recalculate the final apportionment only if it would not reduce funds to other State fish and wildlife agencies.

**§ 80.39 May the Director correct a Service error in apportioning funds?**

Yes. The Director may correct any error that the Service makes in apportioning funds.

**Subpart E—Eligible Activities****§ 80.50 What activities are eligible for funding under the Pittman-Robertson Wildlife Restoration Act?**

The following activities are eligible for funding under the Pittman-Robertson Wildlife Restoration Act:

(a) *Wildlife Restoration program.*

(1) Restore and manage wildlife for the benefit of the public.

(2) Conduct research on the problems of managing wildlife and its habitat if necessary to administer wildlife resources efficiently.

(3) Obtain data to guide and direct the regulation of hunting.

(4) Acquire real property suitable or capable of being made suitable for:

(i) Wildlife habitat; or  
(ii) Public access for hunting or other wildlife-oriented recreation.

(5) Restore, rehabilitate, improve, or manage areas of lands or waters as wildlife habitat.

(6) Build structures or acquire equipment, goods, and services to:

(i) Restore, rehabilitate, or improve lands or waters as wildlife habitat; or  
(ii) Provide public access for hunting or other wildlife-oriented recreation.

(7) Operate or maintain:

(i) Projects that the State fish and wildlife agency completed under the Pittman-Robertson Wildlife Restoration Act; or

(ii) Facilities that the agency acquired or constructed with funds other than those authorized under the Pittman-Robertson Wildlife Restoration Act if these facilities are necessary to carry out activities authorized by the Pittman-Robertson Wildlife Restoration Act.

(8) Coordinate grants in the Wildlife Restoration program and related programs and subprograms.

(b) *Wildlife Restoration—Basic Hunter Education and Safety subprogram.*

(1) Teach the skills, knowledge, and attitudes necessary to be a responsible hunter.

(2) Construct, operate, or maintain firearm and archery ranges for public use.

(c) *Enhanced Hunter Education and Safety program.*

(1) Enhance programs for hunter education, hunter development, and firearm and archery safety. Hunter-development programs introduce individuals to and recruit them to take part in hunting, bow hunting, target shooting, or archery.

(2) Enhance interstate coordination of hunter-education and firearm- and archery-range programs.

(3) Enhance programs for education, safety, or development of bow hunters, archers, and shooters.

(4) Enhance construction and development of firearm and archery ranges.

(5) Update safety features of firearm and archery ranges.

**§ 80.51 What activities are eligible for funding under the Dingell-Johnson Sport Fish Restoration Act?**

The following activities are eligible for funding under the Dingell-Johnson Sport Fish Restoration Act:

(a) *Sport Fish Restoration program.*

(1) Restore and manage sport fish for the benefit of the public.

(2) Conduct research on the problems of managing fish and their habitat and the problems of fish culture if necessary to administer sport fish resources efficiently.

(3) Obtain data to guide and direct the regulation of fishing. These data may be on:

(i) Size and geographic range of sport fish populations;

(ii) Changes in sport fish populations due to fishing, other human activities, or natural causes; and

(iii) Effects of any measures or regulations applied.

(4) Develop and adopt plans to restock sport fish and forage fish in the natural areas or districts covered by the plans; and obtain data to develop, carry out, and test the effectiveness of the plans.

(5) Stock fish for recreational purposes.

(6) Acquire real property suitable or capable of being made suitable for:

(i) Sport fish habitat or as a buffer to protect that habitat; or

(ii) Public access for sport fishing. Closures to sport fishing must be based on the recommendations of the State fish and wildlife agency for fish and wildlife management purposes.

(7) Restore, rehabilitate, improve, or manage:

(i) Aquatic areas adaptable for sport fish habitat; or

(ii) Land adaptable as a buffer to protect sport fish habitat.

(8) Build structures or acquire equipment, goods, and services to:

(i) Restore, rehabilitate, or improve aquatic habitat for sport fish, or land as a buffer to protect aquatic habitat for sport fish; or

(ii) Provide public access for sport fishing.

(9) Construct, renovate, operate, or maintain pumpout and dump stations. A pumpout station is a facility that

pumps or receives sewage from a type III marine sanitation device that the U.S. Coast Guard requires on some vessels. A dump station, also referred to as a "waste reception facility," is specifically designed to receive waste from portable toilets on vessels.

(10) Operate or maintain:

(i) Projects that the State fish and wildlife agency completed under the Dingell-Johnson Sport Fish Restoration Act; or

(ii) Facilities that the agency acquired or constructed with funds other than those authorized by the Dingell-Johnson Sport Fish Restoration Act if these facilities are necessary to carry out activities authorized by the Act.

(11) Coordinate grants in the Sport Fish Restoration program and related programs and subprograms.

(b) *Sport Fish Restoration—Recreational Boating Access subprogram.*

(1) Acquire land for new facilities, build new facilities, or acquire, renovate, or improve existing facilities to create or improve public access to the waters of the United States or improve the suitability of these waters for recreational boating. A broad range of access facilities and associated amenities can qualify for funding, but they must provide benefits to recreational boaters. "Facilities" includes auxiliary structures necessary to ensure safe use of recreational boating access facilities.

(2) Conduct surveys to determine the adequacy, number, location, and quality of facilities providing access to recreational waters for all sizes of recreational boats.

(c) *Sport Fish Restoration—Aquatic Resource Education subprogram.*

Enhance the public's understanding of water resources, aquatic life forms, and sport fishing, and develop responsible attitudes and ethics toward the aquatic environment.

(d) *Sport Fish Restoration—Outreach and Communications subprogram.*

(1) Improve communications with anglers, boaters, and the general public on sport fishing and boating opportunities.

(2) Increase participation in sport fishing and boating.

(3) Advance the adoption of sound fishing and boating practices including safety.

(4) Promote conservation and responsible use of the aquatic resources of the United States.

**§ 80.52 May an activity be eligible for funding if it is not explicitly eligible in this part?**

An activity may be eligible for funding even if this part does not

explicitly designate it as an eligible activity if:

(a) The State fish and wildlife agency justifies in the project statement how the activity will help carry out the purposes of the Pittman-Robertson Wildlife Restoration Act or the Dingell-Johnson Sport Fish Restoration Act; and

(b) The Regional Director concurs with the justification.

**§ 80.53 Are costs of State central services eligible for funding?**

Administrative costs in the form of overhead or indirect costs for State central services outside of the State fish and wildlife agency are eligible for funding under the Acts and must follow an approved cost allocation plan. These expenses must not exceed 3 percent of the funds apportioned annually to the State under the Acts.

**§ 80.54 What activities are ineligible for funding?**

The following activities are ineligible for funding under the Acts, except when necessary to carry out project purposes approved by the Regional Director:

(a) Law enforcement activities.

(b) Public relations activities to promote the State fish and wildlife agency, other State administrative units, or the State.

(c) Activities conducted for the primary purpose of producing income.

(d) Activities, projects, or programs that promote or encourage opposition to the regulated taking of fish, hunting, or the trapping of wildlife.

**§ 80.55 May an agency receive a grant to carry out part of a larger project?**

A State fish and wildlife agency may receive a grant to carry out part of a larger project that uses funds unrelated to the grant. The grant-funded part of the larger project must:

(a) Result in an identifiable outcome consistent with the purposes of the grant program;

(b) Be substantial in character and design;

(c) Meet the requirements of §§ 80.130 through 80.136 for any real property acquired under the grant and any capital improvements completed under the grant; and

(d) Meet all other requirements of the grant program.

**§ 80.56 How does a proposed project qualify as substantial in character and design?**

A proposed project qualifies as substantial in character and design if it:

(a) Describes a need consistent with the Acts;

(b) States a purpose and sets objectives, both of which are based on the need;

(c) Uses a planned approach, appropriate procedures, and accepted principles of fish and wildlife conservation and management, research, or education; and

(d) Is cost effective.

**Subpart F—Allocation of Funds by an Agency**

**§ 80.60 What is the relationship between the Basic Hunter Education and Safety subprogram and the Enhanced Hunter Education and Safety program?**

The relationship between the Basic Hunter Education and Safety

subprogram (Basic Hunter Education) and the Enhanced Hunter Education and Safety program (Enhanced Hunter Education) is as follows:

	Basic Hunter Education funds	Enhanced Hunter Education funds
(a) Which activities are eligible for funding? .....	Those listed at § 80.50(a) and (b) .....	Those listed at 80.50(c), but see 80.60(d) under Basic Hunter Education funds.
(b) How long are funds available for obligation?	Two Federal fiscal years .....	One Federal fiscal year.
(c) What if funds are not fully obligated during the period of availability?	The Service may use unobligated funds to carry out the Migratory Bird Conservation Act (16 U.S.C. 715 <i>et seq.</i> ).	The Service reapportions unobligated funds to eligible States as Wildlife Restoration funds for the following fiscal year. States are eligible to receive funds only if their Basic Hunter Education funds were fully obligated in the preceding fiscal year for activities at § 80.50(b).
(d) What if funds are fully obligated during the period of availability?	If Basic Hunter Education funds are fully obligated for activities listed at 80.50(b), the agency may use that fiscal year's Enhanced Hunter Education funds for eligible activities related to Basic Hunter Education, Enhanced Hunter Education, or the Wildlife Restoration program.	No special provisions apply.

**§ 80.61 What requirements apply to funds for the Recreational Boating Access subprogram?**

The requirements of this section apply to allocating and obligating funds for the Recreational Boating Access subprogram.

(a) A State fish and wildlife agency must allocate funds from each annual apportionment under the Dingell-Johnson Sport Fish Restoration Act for use in the subprogram.

(b) Over each 5-year period, the total allocation for the subprogram in each of the Service's geographic regions must average at least 15 percent of the Sport Fish Restoration funds apportioned to the States in that Region. As long as this requirement is met, an individual State agency may allocate more or less than 15 percent of its annual apportionment in a single Federal fiscal year with the Regional Director's approval.

(c) The Regional Director calculates Regional allocation averages for separate 5-year periods that coincide with Federal fiscal years 2008–2012, 2013–2017, 2018–2022, and each subsequent 5-year period.

(d) If the total Regional allocation for a 5-year period is less than 15 percent, the State agencies may, in a memorandum of understanding, agree among themselves which of them will make the additional allocations to eliminate the Regional shortfall.

(e) This paragraph applies if State fish and wildlife agencies do not agree on which of them will make additional allocations to bring the average Regional

allocation to at least 15 percent over a 5-year period. If the agencies do not agree:

(1) The Regional Director may require States in the Region to make changes needed to achieve the minimum 15-percent Regional average before the end of the fifth year; and

(2) The Regional Director must not require a State to increase or decrease its allocation if the State has allocated at least 15 percent over the 5-year period.

(f) A Federal obligation of these allocated funds must occur by the end of the fourth consecutive Federal fiscal year after the Federal fiscal year in which the funds first became available for allocation.

(g) If the agency's application to use these funds has not led to a Federal obligation by that time, these allocated funds become available for reapportionment among the State fish and wildlife agencies for the following fiscal year.

**§ 80.62 What limitations apply to spending on the Aquatic Resource Education and the Outreach and Communications subprograms?**

The limitations in this section apply to State fish and wildlife agency spending on the Aquatic Resource Education and Outreach and Communications subprograms.

(a) Each State's fish and wildlife agency may spend a maximum of 15 percent of the annual amount apportioned to the State from the Sport Fish Restoration and Boating Trust

Fund for activities in both subprograms. The 15-percent maximum applies to both subprograms as if they were one.

(b) The 15-percent maximum for the subprograms does not apply to the Commonwealths of Puerto Rico and the Northern Mariana Islands, the District of Columbia, and the territories of Guam, the U.S. Virgin Islands, and American Samoa. These jurisdictions may spend more than 15 percent of their annual apportionments for both subprograms with the approval of the Regional Director.

**§ 80.63 Does an agency have to allocate costs in multipurpose projects and facilities?**

Yes. A State fish and wildlife agency must allocate costs in multipurpose projects and facilities. A grant-funded project or facility is multipurpose if it carries out the purposes of:

(a) A single grant program under the Acts; and

(b) Another grant program under the Acts, a grant program not under the Acts, or an activity unrelated to grants.

**§ 80.64 How does an agency allocate costs in multipurpose projects and facilities?**

A State fish and wildlife agency must allocate costs in multipurpose projects based on the uses or benefits for each purpose that will result from the completed project or facility. The agency must describe the method used to allocate costs in multipurpose projects or facilities in the project



statement included in the grant application.

**§ 80.65 Does an agency have to allocate funds between marine and freshwater fisheries projects?**

Yes. Each coastal State's fish and wildlife agency must equitably allocate the funds apportioned under the Dingell-Johnson Sport Fish Restoration Act between projects with benefits for marine fisheries and projects with benefits for freshwater fisheries.

(a) The subprograms authorized by the Dingell-Johnson Sport Fish Restoration Act do not have to allocate funding in the same manner as long as the State fish and wildlife agency equitably allocates Dingell-Johnson Sport Fish Restoration funds as a whole between marine and freshwater fisheries.

(b) The coastal States for purposes of this allocation are:

(1) Alabama, Alaska, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Oregon, Rhode Island, South Carolina, Texas, Virginia, and Washington;

(2) The Commonwealths of Puerto Rico and the Northern Mariana Islands; and

(3) The territories of Guam, the U.S. Virgin Islands, and American Samoa.

**§ 80.66 What requirements apply to allocation of funds between marine and freshwater fisheries projects?**

The requirements of this section apply to allocation of funds between marine and freshwater fisheries projects.

(a) When a State fish and wildlife agency allocates and obligates funds it must meet the following requirements:

(1) The ratio of total funds obligated for marine fisheries projects to total funds obligated for marine and freshwater fisheries projects combined must equal the ratio of resident marine anglers to the total number of resident anglers in the State; and

(2) The ratio of total funds obligated for freshwater fisheries projects to total funds obligated for marine and freshwater fisheries projects combined must equal the ratio of resident freshwater anglers to the total number of resident anglers in the State.

(b) A resident angler is one who fishes for recreational purposes in the same State where he or she maintains legal residence.

(c) Agencies must determine the relative distribution of resident anglers in the State between those that fish in marine environments and those that fish

in freshwater environments. Agencies must use the National Survey of Fishing, Hunting, and Wildlife-associated Recreation or another statistically reliable survey or technique approved by the Regional Director for this purpose.

(d) If an agency uses statistical sampling to determine the relative distribution of resident anglers in the State between those that fish in marine environments and those that fish in freshwater environments, the sampling must be complete by the earlier of the following:

(1) Five years after the last statistical sample; or

(2) Before completing the first certification following any change in the licensing system that could affect the number of sportfishing license holders.

(e) The amounts allocated from each year's apportionment do not necessarily have to result in an equitable allocation for each year. However, the amounts allocated over a variable period, not to exceed 3 years, must result in an equitable allocation between marine and freshwater fisheries projects.

(f) Agencies that fail to allocate funds equitably between marine and freshwater fisheries projects may become ineligible to use Sport Fish Restoration program funds. These agencies must remain ineligible until they demonstrate to the Director that they have allocated the funds equitably.

**§ 80.67 May an agency finance an activity from more than one annual apportionment?**

A State fish and wildlife agency may use funds from more than one annual apportionment to finance high-cost projects, such as construction or acquisition of lands or interests in lands, including water rights. An agency may do this in either of the following ways:

(a) Finance the entire cost of the acquisition or construction from a non-Federal funding source. The Service will reimburse funds to the agency in succeeding apportionment years according to a plan approved by the Regional Director and subject to the availability of funds.

(b) Negotiate an installment purchase or contract in which the agency pays periodic and specified amounts to the seller or contractor according to a plan that schedules either reimbursements or advances of funds immediately before need. The Service will reimburse or advance funds to the agency according to a plan approved by the Regional Director and subject to the availability of funds.

**§ 80.68 What requirements apply to financing an activity from more than one annual apportionment?**

The following conditions apply to financing an activity from more than one annual apportionment:

(a) A State fish and wildlife agency must agree to complete the project even if Federal funds are not available. If an agency does not complete the project, it must recover any expended Federal funds that did not result in commensurate wildlife or sport-fishery benefits. The agency must then reallocate the recovered funds to approved projects in the same program.

(b) The project statement included with the application must have a complete schedule of payments to finish the project.

(c) Interest and other financing costs may be allowable subject to the restrictions in the applicable Federal Cost Principles.

**Subpart G—Application for a Grant**

**§ 80.80 How does an agency apply for a grant?**

(a) An agency applies for a grant by sending the Regional Director:

(1) Completed standard forms that are:

(i) Approved by the Office of Management and Budget for the grant application process; and

(ii) Available on the Federal Web site for electronic grant applications at <http://www.grants.gov>; and

(2) Information required for a comprehensive-management-system grant or a project-by-project grant.

(b) The director of the State fish and wildlife agency or his or her designee must sign all standard forms submitted in the application process.

(c) The agency must send copies of all standard forms and supporting information to the State Clearinghouse or Single Point of Contact before sending it to the Regional Director if the State supports this process under Executive Order 12372, Intergovernmental Review of Federal Programs.

**§ 80.81 What must an agency submit when applying for a comprehensive-management-system grant?**

A State fish and wildlife agency must submit the following documents when applying for a comprehensive-management-system grant:

(a) The standard form for an application for Federal assistance in a mandatory grant program.

(b) The standard forms for assurances for nonconstruction programs and construction programs as applicable. Agencies may submit these standard forms for assurances annually to the

Regional Director for use with all applications for Federal assistance in the programs and subprograms under the Acts.

(c) A statement of cost estimates by subaccount. Agencies may obtain the subaccount numbers from the Service's Regional Division of Wildlife and Sport Fish Restoration.

(d) Supporting documentation explaining how the proposed work complies with the Acts, the provisions of this part, and other applicable laws and regulations.

(e) A statement of the agency's intent to carry out and fund part or all of its comprehensive management system through a grant.

(f) A description of the agency's comprehensive management system including inventory, strategic plan, operational plan, and evaluation. "Inventory" refers to the process or processes that an agency uses to:

- (1) Determine actual, projected, and desired resource and asset status; and
- (2) Identify management problems, issues, needs, and opportunities.

(g) A description of the State fish and wildlife agency program covered by the comprehensive management system.

(h) Contact information for the State fish and wildlife agency employee who is directly responsible for the integrity and operation of the comprehensive management system.

(i) A description of how the public can take part in decisionmaking for the comprehensive management system.

**§ 80.82 What must an agency submit when applying for a project-by-project grant?**

A State fish and wildlife agency must submit the following documents when applying for a project-by-project grant:

- (a) The standard form for an application for Federal assistance in a mandatory grant program.
- (b) The standard forms for assurances for nonconstruction programs and construction programs as applicable. Agencies may submit these standard forms for assurances annually to the Regional Director for use with all applications for Federal assistance in the programs and subprograms under the Acts.

(c) A project statement that describes each proposed project and provides the following information:

- (1) *Need*. Explain why the project is necessary and how it fulfills the purposes of the relevant Act.
- (2) *Purpose and Objectives*. State the purpose and objectives, and base them on the need. The purpose states the desired outcome of the proposed project in general or abstract terms. The objectives state the desired outcome of

the proposed project in terms that are specific and quantified.

(3) *Results or benefits expected*.

(4) *Approach*. Describe the methods used to achieve the stated objectives.

(5) *Useful life*. Propose a useful life for each capital improvement, and reference the method used to determine the useful life of a capital improvement with a value greater than \$100,000.

(6) *Geographic location*.

(7) *Principal investigator for research projects*. Record the principal investigator's name, work address, and work telephone number.

(8) *Program income*.

(i) Estimate the amount of program income that the project is likely to generate.

(ii) Indicate the method or combination of methods (deduction, addition, or matching) of applying program income to Federal and non-Federal outlays.

(iii) Request the Regional Director's approval for the matching method. Describe how the agency proposes to use the program income and the expected results. Describe the essential need for using program income as match.

(iv) Indicate whether the agency wants to treat program income that it earns after the grant period as license revenue or additional funding for purposes consistent with the grant or program.

(v) Indicate whether the agency wants to treat program income that the subgrantee earns as license revenue, additional funding for the purposes consistent with the grant or subprogram, or income subject only to the terms of the subgrant agreement.

(9) *Budget narrative*. Provide costs by project and subaccount with additional information sufficient to show that the project is cost effective. Agencies may obtain the subaccount numbers from the Service's Regional Division of Wildlife and Sport Fish Restoration. Describe any item that requires the Service's approval and estimate its cost. Examples are preaward costs and capital expenditures for land, buildings, and equipment. Include a schedule of payments to finish the project if an agency proposes to use funds from two or more annual apportionments.

(10) *Multipurpose projects*. Describe the method for allocating costs in multipurpose projects and facilities as described in §§ 80.63 and 80.64.

(11) *Relationship with other grants*. Describe any relationship between this project and other work funded by Federal grants that is planned, anticipated, or underway.

(12) *Timeline*. Describe significant milestones in completing the project and any accomplishments to date.

(13) *General*. Provide information in the project statement that:

- (i) Shows that the proposed activities are eligible for funding and substantial in character and design; and
- (ii) Enables the Service to comply with the applicable requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 and 4331-4347), the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), the National Historic Preservation Act (16 U.S.C. 470s), and other laws, regulations, and policies.

**§ 80.83 What is the Federal share of allowable costs?**

(a) The Regional Director must provide at least 10 percent and no more than 75 percent of the allowable costs of a grant-funded project to the fish and wildlife agencies of the 50 States. The Regional Director generally approves any Federal share from 10 to 75 percent as proposed by one of the 50 States if the:

- (1) Funds are available; and
- (2) Application is complete and consistent with laws, regulations, and policies.

(b) The Regional Director may provide funds to the District of Columbia to pay 75 to 100 percent of the allowable costs of a grant-funded project in a program or subprogram authorized by the Dingell-Johnson Sport Fish Restoration Act. The Regional Director decides on the specific Federal share between 75 and 100 percent based on what he or she decides is fair, just, and equitable. The Regional Director may reduce the Federal share to less than 75 percent of allowable project costs only if the District of Columbia voluntarily provides match to pay the remaining allowable costs. However, the Regional Director must not reduce the Federal share below 10 percent unless he or she follows the procedure at paragraph (d) of this section.

(c) The Regional Director may provide funds to pay 75 to 100 percent of the allowable costs of a project funded by a grant to a fish and wildlife agency of the Commonwealths of Puerto Rico and the Northern Mariana Islands and the territories of Guam, the U.S. Virgin Islands, and American Samoa. The Regional Director decides on the specific Federal share between 75 and 100 percent based on what he or she decides is fair, just, and equitable. The Regional Director may reduce the Federal share to less than 75 percent of allowable project costs only if the Commonwealth or territorial fish and

wildlife agency voluntarily provides match to pay the remaining allowable costs. However, the Regional Director must not reduce the Federal share below 10 percent unless he or she follows the procedure at paragraph (d) of this section. The Federal share of allowable costs for a grant-funded project for the Commonwealth of the Northern Mariana Islands and the territories of Guam, the U.S. Virgin Islands, and American Samoa may be affected by the waiver process described at § 80.84(c).

(d) The Regional Director may waive the 10-percent minimum Federal share of allowable costs if the State, District of Columbia, Commonwealth, or territory requests a waiver and provides compelling reasons to justify why it is necessary for the Federal government to fund less than 10 percent of the allowable costs of a project.

**§ 80.84 How does the Service establish the non-Federal share of allowable costs?**

(a) To establish the non-Federal share of a grant-funded project for the 50 States, the Regional Director approves an application for Federal assistance in which the State fish and wildlife agency proposes the specific non-Federal share by estimating the Federal and match dollars, consistent with § 80.83(a).

(b) To establish the non-Federal share of a grant-funded project for the District of Columbia and the Commonwealth of Puerto Rico, the Regional Director:

(1) Decides which percentage is fair, just, and equitable for the Federal share consistent with § 80.83(b) through (d);

(2) Subtracts the Federal share percentage from 100 percent to determine the percentage of non-Federal share; and

(3) Applies the percentage of non-Federal share to the allowable costs of a grant-funded project to determine the match requirement.

(c) To establish the non-Federal share of a grant-funded project for the Commonwealth of the Northern Mariana Islands and the territories of Guam, the U.S. Virgin Islands, and American Samoa, the Regional Director must first calculate a preliminary percentage of non-Federal share in the same manner as described in paragraph (b) of this section. Following 48 U.S.C. 1469a, the Regional Director must then waive the first \$200,000 of match to establish the final non-Federal match requirement for a project that includes funding from only one grant program or subprogram. If a project includes funds from more than one grant program or subprogram, the Regional Director must waive the first \$200,000 of match applied to the funds for each program and subprogram.

**§ 80.85 What requirements apply to match?**

The requirements that apply to match include:

(a) Match may be in the form of cash or in-kind contributions.

(b) Unless authorized by Federal law, the State fish and wildlife agency or any other entity must not:

(1) Use as match Federal funds or the value of an in-kind contribution acquired with Federal funds; or

(2) Use the cost or value of an in-kind contribution to satisfy a match requirement if the cost or value has been or will be used to satisfy a match requirement of another Federal grant, cooperative agreement, or contract.

(c) The agency must fulfill match requirements at the:

(1) Grant level if the grant has funds from a single subaccount; or

(2) Subaccount level if the grant has funds from more than one subaccount.

**Subpart H—General Grant Administration**

**§ 80.90 What are the grantee's responsibilities?**

A State fish and wildlife agency as a grantee is responsible for all of the actions required by this section.

(a) Compliance with all applicable Federal, State, and local laws and regulations.

(b) Supervision to ensure that the work follows the terms of the grant, including:

(1) Proper and effective use of funds;

(2) Maintenance of records;

(3) Submission of complete and accurate Federal financial reports and performance reports by the due dates in the terms and conditions of the grant; and

(4) Regular inspection and monitoring of work in progress.

(c) Selection and supervision of personnel to ensure that:

(1) Adequate and competent personnel are available to complete the grant-funded work on schedule; and

(2) Project personnel meet time schedules, accomplish the proposed work, meet objectives, and submit the required reports.

(d) Settlement of all procurement-related contractual and administrative issues.

(e) Giving reasonable access to work sites and records by employees and contractual auditors of the Service, the Department of the Interior, and the Comptroller General of the United States.

(1) Access is for the purpose of:

(i) Monitoring progress, conducting audits, or other reviews of grant-funded projects; and

(ii) Monitoring the use of license revenue.

(2) Regulations on the uniform administrative requirements for grants awarded by the Department of the Interior describe the records that are subject to these access requirements.

(3) The closeout of an award does not affect the grantee's responsibilities described in this section.

(f) Control of all assets acquired under the grant to ensure that they serve the purpose for which acquired throughout their useful life.

**§ 80.91 What is a Federal obligation of funds and how does it occur?**

An obligation of funds is a legal liability to disburse funds immediately or at a later date as a result of a series of actions. All of these actions must occur to obligate funds for the formula-based grant programs authorized by the Acts:

(a) The Service sends an annual certificate of apportionment to a State fish and wildlife agency, which tells the agency how much funding is available according to formulas in the Acts.

(b) The agency sends the Regional Director an application for Federal assistance to use the funds available to it under the Acts and commits to provide the required match to carry out projects that are substantial in character and design.

(c) The Regional Director notifies the agency that he or she approves the application for Federal assistance and states the terms and conditions of the grant.

(d) The agency accepts the terms and conditions of the grant in one of the following ways:

(1) Starts work on the grant-funded project by placing an order, entering into a contract, awarding a subgrant, receiving goods or services, or otherwise incurring allowable costs during the grant period that will require payment immediately or in the future;

(2) Draws down funds for an allowable activity under the grant; or

(3) Sends the Regional Director a letter, fax, or e-mail accepting the terms and conditions of the grant.

**§ 80.92 How long are funds available for a Federal obligation?**

Funds are available for a Federal obligation during the fiscal year for which they are apportioned and until the close of the following fiscal year except for funds in the Enhanced Hunter Education and Safety program and the Recreational Boating Access subprogram. See §§ 80.60 and 80.61 for the length of time that funds are available in this program and subprogram.

**§ 80.93 When may an agency incur costs under a grant?**

A State fish and wildlife agency may incur costs under a grant from the effective date of the grant period to the end of the grant period except for preaward costs that meet the conditions in § 80.94.

**§ 80.94 May an agency incur costs before the beginning of the grant period?**

(a) A State fish and wildlife agency may incur costs of a proposed project before the beginning of the grant period (preaward costs). However, the agency has no assurance that it will receive reimbursement until the Regional Director awards a grant that incorporates a project statement demonstrating that the preaward costs conform to all of the conditions in paragraph (b) of this section.

(b) Preaward costs must meet the following requirements:

- (1) The costs are necessary and reasonable for accomplishing the grant objectives.
- (2) The Regional Director would have approved the costs if the State fish and wildlife agency incurred them during the grant period.
- (3) The agency incurs these costs in anticipation of the grant and in conformity with the negotiation of the award with the Regional Director.
- (4) The activities associated with the preaward costs comply with all laws, regulations, and policies applicable to a grant-funded project.
- (5) The agency must:
  - (i) Obtain the Regional Director's concurrence that the Service will be able to comply with the applicable laws, regulations, and policies before the agency starts work on the ground; and
  - (ii) Provide the Service with all the information it needs with enough lead time for it to comply with the applicable laws, regulations, and policies.
- (6) The agency must not complete the project before the beginning of the grant

period unless the Regional Director concurs that doing so is necessary to take advantage of temporary circumstances favorable to the project or to meet legal deadlines. An agency completes a project when it incurs all costs and finishes all work necessary to achieve the project objectives.

(c) The agency can receive reimbursement for preaward costs only after the beginning of the grant period.

**§ 80.95 How does an agency receive Federal grant funds?**

(a) A State fish and wildlife agency may receive Federal grant funds through either:

- (1) A request for reimbursement; or
- (2) A request for an advance of funds if the agency maintains or demonstrates that it will maintain procedures to minimize time between transfer of funds and disbursement by the agency or its subgrantee.

(b) An agency must use the following procedures to receive a reimbursement or an advance of funds:

- (1) Request funds through an electronic payment system designated by the Regional Director; or
- (2) Request funds on a standard form for that purpose only if the agency is unable to use the electronic payment system.

(c) The Regional Director will reimburse or advance funds only to the office or official designated by the agency and authorized by State law to receive public funds for the State.

(d) All payments are subject to final determination of allowability based on audit or a Service review. The State fish and wildlife agency must repay any overpayment as directed by the Regional Director.

(e) The Regional Director may withhold payments pending receipt of all required reports or documentation for the project.

**§ 80.96 May an agency use Federal funds without using match?**

(a) The State fish and wildlife agency must not draw down any Federal funds for a grant-funded project under the Acts in greater proportion to the use of match than total Federal funds bear to total match unless:

- (1) The grantee draws down Federal grant funds to pay for construction, including land acquisition;
- (2) An in-kind contribution of match is not yet available for delivery to the grantee or subgrantee; or
- (3) The project is not at the point where it can accommodate an in-kind contribution.

(b) If an agency draws down Federal funds in greater proportion to the use of match than total Federal funds bear to total match under the conditions described at paragraphs (a)(1) through (a)(3) of this section, the agency must:

- (1) Obtain the Regional Director's prior approval, and
- (2) Satisfy the project's match requirement before it submits the final Federal financial report.

**§ 80.97 May an agency barter goods or services to carry out a grant-funded project?**

Yes. A State fish and wildlife agency may barter to carry out a grant-funded project. A barter transaction is the exchange of goods or services for other goods or services without the use of cash. Barter transactions are subject to the Cost Principles at 2 CFR part 220, 2 CFR part 225, or 2 CFR part 230.

**§ 80.98 How must an agency report barter transactions?**

(a) A State fish and wildlife agency must follow the requirements in the following table when reporting barter transactions in the Federal financial report:

If * * *	Then the agency * * *
(1) The goods or services exchanged have the same market value.,	(i) Does not have to report bartered goods or services as program income or grant expenses in the Federal financial report; and (ii) Must disclose that barter transactions occurred and state what was bartered in the Remarks section of the report.
(2) The market value of the goods or services relinquished exceeds the market value of the goods and services received.,	Must report the difference in market value as grant expenses in the Federal financial report.
(3) The market value of the goods or services received exceeds the market value of the goods and services relinquished.,	Must report the difference in market value as program income in the Federal financial report.
(4) The barter transaction was part of a cooperative farming or grazing arrangement meeting the requirements in paragraph (b) of this section.,	(i) Does not have to report bartered goods or services as program income or grant expenses in the Federal financial report; and (ii) Must disclose that barter transactions occurred and identify what was bartered in the Remarks section of the Federal financial report.

(b) For purposes of paragraph (a)(4) of this section, cooperative farming or grazing is an arrangement in which an agency:

- (1) Allows an agricultural producer to farm or graze livestock on land under the agency's control; and
- (2) Designs the farming or grazing to advance the agency's fish and wildlife management objectives.

**§ 80.99 Are symbols available to identify projects?**

Yes. The following distinctive symbols are available to identify projects funded by the Acts and products on which taxes and duties have been collected to support the Acts:

(a) The symbol of the Pittman-Robertson Wildlife Restoration Act follows:



(b) The symbol of the Dingell-Johnson Sport Fish Restoration Act follows:



(c) The symbol of the Acts when used in combination follows:



**§ 80.100 Does an agency have to display one of the symbols in this part on a completed project?**

No. A State fish and wildlife agency does not have to display one of the symbols in § 80.99 on a project

completed under the Acts. However, the Service encourages agencies to display the appropriate symbol following these requirements or guidelines:

(a) An agency may display the appropriate symbol(s) on:

(1) Areas such as wildlife-management areas, shooting ranges, and sportfishing and boating-access facilities that were acquired, developed, operated, or maintained with funds authorized by the Acts; and

(2) Printed or Web-based material or other visual representations of project accomplishments.

(b) An agency may require a subgrantee to display the appropriate symbol or symbols in the places described in paragraph (a) of this section.

(c) The Director or Regional Director may authorize an agency to use the symbols in a manner other than as described in paragraph (a) of this section.

(d) The Director or Regional Director may authorize other persons, organizations, agencies, or governments to use the symbols for purposes related to the Acts by entering into a written agreement with the user. An applicant must state how it intends to use the symbol(s), to what it will attach the symbol(s), and the relationship to the specific Act.

(e) The user of the symbol(s) must indemnify and defend the United States and hold it harmless from any claims, suits, losses, and damages from:

- (1) Any allegedly unauthorized use of any patent, process, idea, method, or device by the user in connection with its use of the symbol(s), or any other alleged action of the user; and
- (2) Any claims, suits, losses, and damages arising from alleged defects in the articles or services associated with the symbol(s).

(f) The appearance of the symbol(s) on projects or products indicates that the manufacturer of the product pays excise taxes in support of the respective Act(s), and that the project was funded under the respective Act(s) (26 U.S.C. 4161, 4162, 4181, 4182, 9503, and 9504). The Service and the Department of the Interior make no representation or endorsement whatsoever by the display of the symbol(s) as to the quality, utility, suitability, or safety of any product, service, or project associated with the symbol(s).

(g) No one may use any of the symbols in any other manner unless the Director or Regional Director authorizes it. Unauthorized use of the symbol(s) is a violation of 18 U.S.C. 701 and subjects the violator to possible fines and imprisonment.

**Subpart I—Program Income**

**§ 80.120 What is program income?**

(a) Program income is gross income received by the grantee or subgrantee and earned only as a result of the grant during the grant period.

(b) Program income includes revenue from:

- (1) Services performed under a grant;
- (2) Use or rental of real or personal property acquired, constructed, or managed with grant funds;
- (3) Payments by concessioners or contractors under an arrangement with the agency or subgrantee to provide a service in support of grant objectives on real property acquired, constructed, or managed with grant funds;
- (4) Sale of items produced under a grant;
- (5) Royalties and license fees for copyrighted material, patents, and inventions developed as a result of a grant; or
- (6) Sale of a product of mining, drilling, forestry, or agriculture during the period of a grant that supports the:
  - (i) Mining, drilling, forestry, or agriculture; or
  - (ii) Acquisition of the land on which these activities occurred.

(c) Program income does not include:

- (1) Interest on grant funds, rebates, credits, discounts, or refunds;
- (2) Sales receipts retained by concessioners or contractors under an arrangement with the agency to provide a service in support of grant objectives on real property acquired, constructed, or managed with grant funds;
- (3) Cash received by the agency or by volunteer instructors to cover incidental costs of a class for hunter or aquatic-resource education;
- (4) Cooperative farming or grazing arrangements as described at § 80.98; or
- (5) Proceeds from the sale of real property.

**§ 80.121 May an agency earn program income?**

A State fish and wildlife agency may earn income from activities incidental to the grant purposes as long as producing income is not a primary purpose. The agency must account for income received from these activities in the project records and dispose of it according to the terms of the grant.

**§ 80.122 May an agency deduct the costs of generating program income from gross income?**

(a) A State fish and wildlife agency may deduct the costs of generating program income from gross income when it calculates program income as long as the agency does not:

- (1) Pay these costs with:
  - (i) Federal or matching cash under a Federal grant; or
  - (ii) Federal cash unrelated to a grant.
- (2) Cover these costs by accepting:
  - (i) Matching in-kind contributions for a Federal grant; or
  - (ii) Donations of services, personal property, or real property unrelated to a Federal grant.
- (b) Examples of costs of generating program income that may qualify for deduction from gross income if they are consistent with paragraph (a) of this section are:

- (1) Cost of estimating the amount of commercially acceptable timber in a forest and marking it for harvest if the commercial harvest is incidental to a grant-funded habitat-management or facilities-construction project.
  - (2) Cost of publishing research results as a pamphlet or book for sale if the publication is incidental to a grant-funded research project.
- § 80.123 How may an agency use program income?**
- (a) A State fish and wildlife agency may choose any of the three methods listed in paragraph (b) of this section for

applying program income to Federal and non-Federal outlays. The agency may also use a combination of these methods. The method or methods that the agency chooses will apply to the program income that it earns during the grant period and to the program income that any subgrantee earns during the grant period. The agency must indicate the method that it wants to use in the project statement that it submits with each application for Federal assistance.

(b) The three methods for applying program income to Federal and non-Federal outlays are in the following table:

Method	Requirements for using the method
(1) Deduction .....	<ul style="list-style-type: none"> <li>(i) The agency must deduct the program income from total allowable costs to determine the net allowable costs.</li> <li>(ii) The agency must use program income for current costs under the grant unless the Regional Director authorizes otherwise.</li> <li>(iii) If the agency does not indicate the method that it wants to use in the project statement, then it must use the deduction method.</li> </ul>
(2) Addition .....	<ul style="list-style-type: none"> <li>(i) The agency may add the program income to the Federal and matching funds under the grant.</li> <li>(ii) The agency must use the program income for the purposes of the grant and under the terms of the grant.</li> </ul>
(3) Matching .....	<ul style="list-style-type: none"> <li>(i) The agency must request the Regional Director's approval in the project statement.</li> <li>(ii) The agency must explain in the project statement how the agency proposes to use the program income, the expected results, and why it is essential to use program income as match.</li> <li>(iii) The Regional Director may approve the use of the matching method if the requirements of paragraph (c) of this section are met.</li> </ul>

- (c) The Regional Director may approve the use of the matching method if the proposed use of the program income would:
  - (1) Be consistent with the intent of the applicable Act or Acts; and
  - (2) Result in at least one of the following:
    - (i) The agency substitutes program income for at least some of the match that it would otherwise have to provide, and then uses this saved match for other fish or wildlife-related projects;
    - (ii) The agency substitutes program income for at least some of the apportioned Federal funds, and then uses the saved Federal funds for additional eligible activities under the program; or
    - (iii) A net benefit to the program.

- (1) License revenue for the administration of the agency; or
  - (2) Additional funding for purposes consistent with the grant or the program.
- (b) The agency must indicate its choice of one of the alternatives in paragraph (a) of this section in the project statement that the agency submits with each application for Federal assistance. If the agency does not record its choice in the project statement, the agency must treat the income earned after the grant period as license revenue.

statement, the subgrantee does not have to account for any income that it earns after the grant period unless required to do so in the subgrant agreement or in any subsequent contractual agreement.

**Subpart J—Real Property**

**§ 80.130 Does an agency have to hold title to real property acquired under a grant?**

A State fish and wildlife agency must hold title to an ownership interest in real property acquired under a grant to the extent possible under State law.

(a) Some States do not authorize their fish and wildlife agency to hold the title to real property that the agency manages. In these cases, the State or one of its administrative units may hold the title to grant-funded real property as long as the agency has the authority to manage the real property for its authorized purpose under the grant. The agency, the State, or another administrative unit of State government must not hold title to an undivided ownership interest in the real property concurrently with a subgrantee or any other entity.

(b) An ownership interest is an interest in real property that gives the person who holds it the right to use and occupy a parcel of land or water and to exclude others. Ownership interests include fee and leasehold interests but not easements.

**§ 80.124 How may an agency use unexpended program income?**

If a State fish and wildlife agency has unexpended program income on its final Federal financial report, it may use the income under a subsequent grant for any activity eligible for funding in the grant program that generated the income.

**§ 80.125 How must an agency treat income that it earns after the grant period?**

(a) The State fish and wildlife agency must treat program income that it earns after the grant period as either:

**§ 80.126 How must an agency treat income earned by a subgrantee after the grant period?**

- (a) The State fish and wildlife agency must treat income earned by a subgrantee after the grant period as:
  - (1) License revenue for the administration of the agency;
  - (2) Additional funding for purposes consistent with the grant or the program; or
  - (3) Income subject only to the terms of the subgrant agreement and any subsequent contractual agreements between the agency and the subgrantee.
- (b) The agency must indicate its choice of one of the above alternatives in the project statement that it submits with each application for Federal assistance. If the agency does not indicate its choice in the project

**§ 80.131 Does an agency have to hold an easement acquired under a grant?**

A State fish and wildlife agency must hold an easement acquired under a grant, but it may share certain rights or responsibilities as described in paragraph (b) of this section if consistent with State law.

(a) Any sharing of rights or responsibilities does not diminish the agency's responsibility to manage the easement for its authorized purpose.

(b) The agency may share holding or enforcement of an easement only in the following situations:

(1) The State or another administrative unit of State government may hold an easement on behalf of its fish and wildlife agency.

(2) The agency may subgrant the concurrent right to hold the easement to a nonprofit organization or to a local or tribal government. A concurrent right to hold an easement means that both the State agency and the subgrantee hold the easement and share its rights and responsibilities.

(3) The agency may subgrant a right of enforcement to a nonprofit organization or to a local or tribal government. This right of enforcement may allow the subgrantee to have reasonable access and entry to property protected under the easement for purposes of inspection, monitoring, and enforcement. The subgrantee's right of enforcement must not supersede and must be concurrent with the agency's right of enforcement.

**§ 80.132 Does an agency have to control the land or water where it completes capital improvements?**

Yes. A State fish and wildlife agency must control the parcel of land and water on which it completes a grant-funded capital improvement. An agency must exercise this control by holding title to a fee or leasehold interest or through another legally binding agreement. Control must be adequate for the protection, maintenance, and use of the improvement for its authorized purpose during its useful life even if the agency did not acquire the parcel with grant funds.

**§ 80.133 Does an agency have to maintain acquired or completed capital improvements?**

Yes. A State fish and wildlife agency is responsible for maintaining capital improvements acquired or completed under a grant to ensure that each capital improvement continues to serve its authorized purpose during its useful life.

**§ 80.134 How must an agency use real property?**

(a) If a grant funds acquisition of an interest in a parcel of land or water, the State fish and wildlife agency must use it for the purpose authorized in the grant.

(b) If a grant funds construction of a capital improvement, the agency must use the capital improvement for the purpose authorized in the grant during the useful life of the capital improvement. The agency must do this even if it did not use grant funds to:

(1) Acquire the parcel on which the capital improvement is located; or

(2) Build the structure in which the capital improvement is a component.

(c) If a grant funds management, operation, or maintenance of a parcel of land or water, or a capital improvement, the agency must use it for the purpose authorized in the grant during the grant period. The agency must do this even if it did not acquire the parcel or construct the capital improvement with grant funds.

(d) A State agency may allow commercial, recreational, and other secondary uses of a grant-funded parcel of land or water or capital improvement if these secondary uses do not interfere with the authorized purpose of the grant.

**§ 80.135 What if an agency allows a use of real property that interferes with its authorized purpose?**

(a) When a State fish and wildlife agency allows a use of real property that interferes with its authorized purpose under a grant, the agency must fully restore the real property to its authorized purpose.

(b) If the agency cannot fully restore the real property to its authorized purpose, it must replace the real property using non-Federal funds.

(c) The agency must determine that the replacement property:

(1) Is of at least equal value at current market prices; and

(2) Has fish, wildlife, and public-use benefits consistent with the purposes of the original grant.

(d) The Regional Director may require the agency to obtain an appraisal and appraisal review to estimate the value of the replacement property at current market prices if the agency cannot support its assessment of value.

(e) The agency must obtain the Regional Director's approval of:

(1) Its determination of the value and benefits of the replacement property; and

(2) The documentation supporting this determination.

(f) The agency may have a reasonable time, up to 3 years from the date of

notification by the Regional Director, to restore the real property to its authorized purpose or acquire replacement property. If the agency does not restore the real property to its authorized purpose or acquire replacement property within 3 years, the Director may declare the agency ineligible to receive new grants in the program or programs that funded the original acquisition.

**§ 80.136 Is it a diversion if an agency does not use grant-acquired real property for its authorized purpose?**

If a State fish and wildlife agency does not use grant-acquired real property for its authorized purpose, a diversion occurs only if both of the following conditions apply:

(a) The agency used license revenue as match for the grant; and

(b) The unauthorized use is for a purpose other than management of the fish- and wildlife-related resources for which the agency has authority under State law.

**§ 80.137 What if real property is no longer useful or needed for its original purpose?**

If the director of the State fish and wildlife agency and the Regional Director jointly decide that grant-funded real property is no longer useful or needed for its original purpose under the grant, the director of the agency must:

(a) Propose another eligible purpose for the real property under the grant program and ask the Regional Director to approve this proposed purpose, or

(b) Request disposition instructions for the real property under the process described at 43 CFR 12.71, "Administrative and Audit Requirements and Cost Principles for Assistance Programs."

**Subpart K—Revisions and Appeals****§ 80.150 How does an agency ask for revision of a grant?**

(a) A State fish and wildlife agency must ask for revision of a project or grant by sending the Service the following documents:

(1) The standard form approved by the Office of Management and Budget as an application for Federal assistance. The agency may use this form to update or request a change in the information that it submitted in an approved application. The director of the agency or his or her designee must sign this form.

(2) A statement attached to the application for Federal assistance that explains:

(i) How the requested revision would affect the information that the agency

submitted with the original grant application; and

(ii) Why the requested revision is necessary.

(b) An agency must send any requested revision of the purpose or objectives of a project or grant to the State Clearinghouse or Single Point of Contact if the State maintains this process under Executive Order 12372, Intergovernmental Review of Federal Programs.

**§ 80.151 May an agency appeal a decision?**

An agency may appeal the Director's or Regional Director's decision on any matter subject to this part.

(a) The State fish and wildlife agency must send the appeal to the Director within 30 days of the date that the Director or Regional Director mails or otherwise informs an agency of a decision.

(b) The agency may appeal the Director's decision under paragraph (a) of this section to the Secretary within 30 days of the date that the Director mailed the decision. An appeal to the Secretary must follow procedures in 43 CFR part 4, subpart G, "Special Rules Applicable to other Appeals and Hearings."

**Subpart L—Information Collection**

**§ 80.160 What are the information collection requirements of this part?**

(a) This part requires each State fish and wildlife agency to provide the following information to the Service. The State agency must:

(1) Certify the number of people who have paid licenses to hunt and the number of people who have paid licenses to fish in a State during the State-specified certification period (OMB control number 1018-0007).

(2) Provide information for a grant application on a Governmentwide standard form (OMB control number 4040-0002).

(3) Certify on a Governmentwide standard form that it:

(i) Has the authority to apply for the grant;

(ii) Has the capability to complete the project; and

(iii) Will comply with the laws, regulations, and policies applicable to nonconstruction projects, construction projects, or both (OMB control numbers 4040-0007 and 4040-0009).

(4) Provide a project statement that describes the need, purpose and objectives, results or benefits expected, approach, geographic location, explanation of costs, and other information that demonstrates that the project is eligible under the Acts and

meets the requirements of the Federal Cost Principles and the laws, regulations, and policies applicable to the grant program (OMB control number 1018-0109).

(5) Change or update information provided to the Service in a previously approved application (OMB control number 1018-0109).

(6) Report on a Governmentwide standard form on the status of Federal grant funds and any program income earned (OMB control number 0348-0061).

(7) Report as a grantee on progress in completing the grant-funded project (OMB control number 1018-0109).

(b) The authorizations for information collection under this part are in the Acts and in 43 CFR part 12, subpart C, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments."

(c) Send comments on the information collection requirements to: U.S. Fish and Wildlife Service, Information Collection Clearance Officer, 4401 North Fairfax Drive, MS 2042-PDM, Arlington, VA 22203.

Dated July 19, 2011.

**Rachel Jacobson,**  
*Acting Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 2011-19206 Filed 7-29-11; 8:45 am]

BILLING CODE 4310-55-P



**NOTICE OF AWARD**



AUTHORIZATION (Legislation/Regulations)

Dingell-Johnson Sport Fish Restoration Act—Sport Fish Restoration (16 U.S.C. §777 et seq., except §§777e-1 and g-1)

1. DATE ISSUED MM/DD/YYYY 06/25/2024		1a. SUPERSEDES AWARD NOTICE dated except that any additions or restrictions previously imposed remain in effect unless specifically rescinded	
2. CFDA NO. 15.605 - Sport Fish Restoration			
3. ASSISTANCE TYPE Formula Grant			
4. GRANT NO. F24AF01841-00 Originating MCA #		5. TYPE OF AWARD Other	
4a. FAIN F24AF01841		5a. ACTION TYPE New	
6. PROJECT PERIOD MM/DD/YYYY From 06/01/2024		Through 05/31/2027	
7. BUDGET PERIOD MM/DD/YYYY From 06/01/2024		Through 05/31/2027	
8. TITLE OF PROJECT (OR PROGRAM) City of Clearwater - Clearwater Beach Marina Renovation			

9a. GRANTEE NAME AND ADDRESS FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION 620 S Meridian St Tallahassee, FL, 32399-6543	9b. GRANTEE PROJECT DIRECTOR Mr. Joshua Bradt 620 S Meridian St Tallahassee, FL, 32399-6543 Phone: 8507172108
---	---

10a. GRANTEE AUTHORIZING OFFICIAL Mr. Roger Young 620 South Meridian Street Tallahassee, FL, 32399-6543 Phone: 850-487-3796	10b. FEDERAL PROJECT OFFICER Matthew Roberts 1875 Century Blvd. Atlanta, GA, 30345 Phone: (470) 813-2848
---	--

**ALL AMOUNTS ARE SHOWN IN USD**

11. APPROVED BUDGET (Excludes Direct Assistance)		12. AWARD COMPUTATION																																									
I Financial Assistance from the Federal Awarding Agency Only		a. Amount of Federal Financial Assistance (from item 11m) \$ 1,706,760.00																																									
II Total project costs including grant funds and all other financial participation		b. Less Unobligated Balance From Prior Budget Periods \$ 0.00																																									
		c. Less Cumulative Prior Award(s) This Budget Period \$ 0.00																																									
		d. AMOUNT OF FINANCIAL ASSISTANCE THIS ACTION \$ 1,706,760.00																																									
		13. Total Federal Funds Awarded to Date for Project Period \$ 1,706,760.00																																									
		14. RECOMMENDED FUTURE SUPPORT (Subject to the availability of funds and satisfactory progress of the project):																																									
		<table border="1"> <thead> <tr> <th>YEAR</th> <th>TOTAL DIRECT COSTS</th> <th>YEAR</th> <th>TOTAL DIRECT COSTS</th> </tr> </thead> <tbody> <tr> <td>a. 2</td> <td>\$</td> <td>d. 5</td> <td>\$</td> </tr> <tr> <td>b. 3</td> <td>\$</td> <td>e. 6</td> <td>\$</td> </tr> <tr> <td>c. 4</td> <td>\$</td> <td>f. 7</td> <td>\$</td> </tr> </tbody> </table>		YEAR	TOTAL DIRECT COSTS	YEAR	TOTAL DIRECT COSTS	a. 2	\$	d. 5	\$	b. 3	\$	e. 6	\$	c. 4	\$	f. 7	\$																								
YEAR	TOTAL DIRECT COSTS	YEAR	TOTAL DIRECT COSTS																																								
a. 2	\$	d. 5	\$																																								
b. 3	\$	e. 6	\$																																								
c. 4	\$	f. 7	\$																																								
<table border="1"> <tr> <td>a. Salaries and Wages</td> <td>\$ 0.00</td> </tr> <tr> <td>b. Fringe Benefits</td> <td>\$ 0.00</td> </tr> <tr> <td>c. Total Personnel Costs</td> <td>\$ 0.00</td> </tr> <tr> <td>d. Equipment</td> <td>\$ 0.00</td> </tr> <tr> <td>e. Supplies</td> <td>\$ 0.00</td> </tr> <tr> <td>f. Travel</td> <td>\$ 0.00</td> </tr> <tr> <td>g. Construction</td> <td>\$ 2,036,000.00</td> </tr> <tr> <td>h. Other</td> <td>\$ 808,600.00</td> </tr> <tr> <td>i. Contractual</td> <td>\$ 0.00</td> </tr> <tr> <td><b>j. TOTAL DIRECT COSTS</b></td> <td><b>\$ 2,844,600.00</b></td> </tr> <tr> <td>k. INDIRECT COSTS</td> <td>\$ 0.00</td> </tr> <tr> <td><b>l. TOTAL APPROVED BUDGET</b></td> <td><b>\$ 2,844,600.00</b></td> </tr> <tr> <td>m. Federal Share</td> <td>\$ 1,706,760.00</td> </tr> <tr> <td>n. Non-Federal Share</td> <td>\$ 1,137,840.00</td> </tr> </table>		a. Salaries and Wages	\$ 0.00	b. Fringe Benefits	\$ 0.00	c. Total Personnel Costs	\$ 0.00	d. Equipment	\$ 0.00	e. Supplies	\$ 0.00	f. Travel	\$ 0.00	g. Construction	\$ 2,036,000.00	h. Other	\$ 808,600.00	i. Contractual	\$ 0.00	<b>j. TOTAL DIRECT COSTS</b>	<b>\$ 2,844,600.00</b>	k. INDIRECT COSTS	\$ 0.00	<b>l. TOTAL APPROVED BUDGET</b>	<b>\$ 2,844,600.00</b>	m. Federal Share	\$ 1,706,760.00	n. Non-Federal Share	\$ 1,137,840.00	<table border="1"> <tr> <td colspan="2">15. PROGRAM INCOME SHALL BE USED IN ACCORD WITH ONE OF THE FOLLOWING ALTERNATIVES:</td> </tr> <tr> <td>a. DEDUCTION</td> <td></td> </tr> <tr> <td>b. ADDITIONAL COSTS</td> <td></td> </tr> <tr> <td>c. MATCHING</td> <td></td> </tr> <tr> <td>d. OTHER RESEARCH (Add / Deduct Option)</td> <td></td> </tr> <tr> <td>e. OTHER (See REMARKS)</td> <td style="text-align: center;"><b>e</b></td> </tr> </table>		15. PROGRAM INCOME SHALL BE USED IN ACCORD WITH ONE OF THE FOLLOWING ALTERNATIVES:		a. DEDUCTION		b. ADDITIONAL COSTS		c. MATCHING		d. OTHER RESEARCH (Add / Deduct Option)		e. OTHER (See REMARKS)	<b>e</b>
a. Salaries and Wages	\$ 0.00																																										
b. Fringe Benefits	\$ 0.00																																										
c. Total Personnel Costs	\$ 0.00																																										
d. Equipment	\$ 0.00																																										
e. Supplies	\$ 0.00																																										
f. Travel	\$ 0.00																																										
g. Construction	\$ 2,036,000.00																																										
h. Other	\$ 808,600.00																																										
i. Contractual	\$ 0.00																																										
<b>j. TOTAL DIRECT COSTS</b>	<b>\$ 2,844,600.00</b>																																										
k. INDIRECT COSTS	\$ 0.00																																										
<b>l. TOTAL APPROVED BUDGET</b>	<b>\$ 2,844,600.00</b>																																										
m. Federal Share	\$ 1,706,760.00																																										
n. Non-Federal Share	\$ 1,137,840.00																																										
15. PROGRAM INCOME SHALL BE USED IN ACCORD WITH ONE OF THE FOLLOWING ALTERNATIVES:																																											
a. DEDUCTION																																											
b. ADDITIONAL COSTS																																											
c. MATCHING																																											
d. OTHER RESEARCH (Add / Deduct Option)																																											
e. OTHER (See REMARKS)	<b>e</b>																																										
		16. THIS AWARD IS BASED ON AN APPLICATION SUBMITTED TO, AND AS APPROVED BY, THE FEDERAL AWARDED AGENCY ON THE ABOVE TITLED PROJECT AND IS SUBJECT TO THE TERMS AND CONDITIONS INCORPORATED EITHER DIRECTLY OR BY REFERENCE IN THE FOLLOWING:																																									
		<table border="1"> <tr> <td>a. The grant program legislation</td> </tr> <tr> <td>b. The grant program regulations.</td> </tr> <tr> <td>c. This award notice including terms and conditions, if any, noted below under REMARKS.</td> </tr> <tr> <td>d. Federal administrative requirements, cost principles and audit requirements applicable to this grant.</td> </tr> </table> <p>In the event there are conflicting or otherwise inconsistent policies applicable to the grant, the above order of precedence shall prevail. Acceptance of the grant terms and conditions is acknowledged by the grantee when funds are drawn or otherwise obtained from the grant payment system.</p>		a. The grant program legislation	b. The grant program regulations.	c. This award notice including terms and conditions, if any, noted below under REMARKS.	d. Federal administrative requirements, cost principles and audit requirements applicable to this grant.																																				
a. The grant program legislation																																											
b. The grant program regulations.																																											
c. This award notice including terms and conditions, if any, noted below under REMARKS.																																											
d. Federal administrative requirements, cost principles and audit requirements applicable to this grant.																																											

REMARKS (Other Terms and Conditions Attached -  Yes  No)

No Program Income is anticipated under this award. The total budget for this project is \$2,844,600, of which \$1,706,760 is Federal, \$568,920 is required Non-federal match (75/25) and \$568,920 is anticipated overmatch.

**GRANTS MANAGEMENT OFFICIAL:**

PAUL WILKES, WSFR Regional Manager  
1875 Century Blvd  
Atlanta, GA, 30345  
Phone: 404-679-4154

17. VENDOR CODE	0070105970	18a. UEI	J1QQFNP52814	18b. DUNS	838103893	19. CONG. DIST.	13
LINE#	FINANCIAL ACCT	AMT OF FIN ASST	START DATE	END DATE	TAS ACCT	PO LINE DESCRIPTION	
1	0051050362-00010	\$1,706,760.00	06/01/2024	05/31/2027	8151	SFR-9522 BA	

# NOTICE OF AWARD (Continuation Sheet)

PAGE 2 of 9	DATE ISSUED 06/25/2024
GRANT NO. F24AF01841-00	

## SCOPE OF WORK

### 1. Project Description

The Service hereby incorporates the recipient's application submitted to and approved by the Service into these award terms and conditions.

This project will replace the existing, aging marina infrastructure with a new, state-of-the-art transient dock that will safely serve visitors of Clearwater Beach arriving bywater. The construction of a new recreational boating dock will improve safety, accessibility and boating public access to the waterfront and nearby amenities and attractions.

## SPECIAL TERMS AND REQUIREMENTS

### 1. Environmental Compliance Reviews

Construction Activities: This grant award is conditioned that no construction activities (ground-disturbing or in-water) that may be impactful to protected species or habitats may take place **at new sites** until all required compliance documents have been received, reviewed, and approved by the Wildlife and Sport Fish Restoration Program and a notification to proceed has been received in writing.

Recipients and sub-recipients of Federal grants and cooperative agreement awards must comply with the requirements of the National Environmental Policy Act (NEPA), Section 7 of Endangered Species Act (ESA), and Section 106 of the National Historic Preservation Act (NHPA).

## AWARD CONDITIONS

### 1. Office of Conservation Investment Wildlife Restoration / Sport Fish Restoration Match

The federal share of the total project costs cannot exceed 75%. The Grant Recipient is eligible to request Federal obligated funds up to but not in excess of an amount equal to 75% of the total project expenditures. See also 2 CFR §200.306.

### 2. Office of Conservation Investment TRACS Grant Entry

The recipient is responsible for entering grant and project statement information for this award into the Service's electronic performance reporting system – TRACS (<https://tracs.fws.gov>). This information must be entered in TRACS within 60 calendar days of the latter: (a) period of performance start date; or (b) the date the award was approved. The grant and project statement information entered in TRACS must be consistent with the approved Project Statement (narrative) in GrantSolutions. If you need assistance, please contact the Office of Conservation Investment Federal Project Officer identified in this Notice of Award.

## PAYMENTS

### 1. Domestic Recipients Enrolled in Treasury's ASAP System

The recipient will request payments under this award in the [U.S. Treasury's Automated Standard Application for Payment \(ASAP\)](#) system. When requesting payment in ASAP, your Payment Requestor will be required to enter an Account ID. The number assigned to this award is the partial Account ID in ASAP. When entering the Account ID in ASAP, the Payment Requestor should enter the award number identified in the notice of award, followed by a percent sign (%). Refer to the [ASAP.gov Help](#) menu for detailed instructions on requesting payments in ASAP.

# NOTICE OF AWARD (Continuation Sheet)

PAGE 3 of 9	DATE ISSUED 06/25/2024
GRANT NO. F24AF01841-00	

## REPORT

### 1. Office of Conservation Investment TRACS Reporting

The recipient is responsible for entering interim (if required) and final performance report information for this award into the Service's electronic performance reporting system – TRACS (<https://tracs.fws.gov>) and attaching those reports from TRACS into GrantSolutions by the report due date(s) as specified in GrantSolutions. Performance information entered in TRACS must provide quantitative outputs to the approved Standard Objectives and narrative responses to the following questions. If the award includes multiple project statements, the recipient must answer these questions for each project statement. If you need assistance, please contact the Office of Conservation Investment Federal Project Officer identified in this Notice of Award.

1. What progress has been made towards completing the objective(s) of the project?
2. Please describe and justify any changes in the implementation of your objective(s) or approach(es).
3. If applicable, please share if the project resulted in any unexpected benefits, promising practices, new understandings, cost efficiencies, management recommendations, or lessons learned.
4. For survey projects only: If applicable, does this project continue work from a previous award? If so, how do the current results compare to prior results? (Recipients may elect to add attachments such as tables, figures, or graphs to provide further detail when answering this question).
5. If applicable, identify and attach selected publications, photographs, screenshots of websites, or other documentation (including articles in popular literature, scientific literature, or other public information products) that have resulted from this project that highlight the accomplishments of the project.
6. Is this a project that you wish to highlight for communication purposes?
7. For CMS State fish and wildlife agencies only: If the grant is a CMS, has the agency submitted an update report every 3 years detailing the CMS components: (a) inventory and scanning; (b) strategic plan; (c) operational plan; and (d) evaluation and control have been reviewed and summaries included which provide detailed review results and recommendations?

### 2. Office of Conservation Investment TRACS Real Property/Facility

The recipient is responsible for entering required information into the TRACS (<https://tracs.fws.gov>) inventory modules to create real property/facility record(s). These records will become the basis for future recipient real property/facility reporting compliance under 2 CFR 200.330 and 2 CFR 1402.329. If you need assistance with entering real property/facility records in TRACS, please contact the Office of Conservation Investment Federal Project Officer identified in this Notice of Award.

### 3. Office of Conservation Investment Interim Financial Reports

The recipient is required to submit interim financial reports on an annual basis directly in GrantSolutions. The recipient must follow the financial reporting period end dates and due dates provided in GrantSolutions. The interim reporting due dates are available by signing in to GrantSolutions and selecting the menu for Reports>Federal Financial Report. The GrantSolutions financial report data entry fields are the same as those on the SF-425, "[Federal Financial Report](#)" form. See also our instructional video on "[Completing the Federal Financial Report \(SF-425\)](#)".

### 4. Office of Conservation Investment Interim Performance Reports

The recipient is required to submit interim performance reports on an annual basis directly in GrantSolutions. The recipient must follow the performance reporting period end dates and due dates provided in GrantSolutions. The interim reporting due dates are available by signing in to GrantSolutions and selecting the menu for Reports>PPR.

## NOTICE OF AWARD (Continuation Sheet)

PAGE 4 of 9	DATE ISSUED 06/25/2024
GRANT NO. F24AF01841-00	

### 5. Final Reports

The recipient must liquidate all obligations incurred under the award and submit a *final* financial report in GrantSolutions no later than 120 calendar days after the award period of performance end date. The GrantSolutions financial report data entry fields are the same as those on the SF-425, Federal Financial Report form, <https://www.grants.gov/web/grants/forms/post-award-reporting-forms.html>. See also our instructional video on “Completing the Federal Financial Report (SF425)” [https://fawiki.fws.gov/display/VLSV#VirtualLearningSeriesVideosHome-CompletingtheFederalFinancialReport\(SF-425\)](https://fawiki.fws.gov/display/VLSV#VirtualLearningSeriesVideosHome-CompletingtheFederalFinancialReport(SF-425))

The recipient must submit a *final* performance report no later than 120 calendar days after the award period of performance end date. Performance reports must contain: 1) a comparison of actual accomplishments with the goals and objectives of the award as detailed in the approved scope of work; 2) a description of reasons why established goals were not met, if appropriate; and 3) any other pertinent information relevant to the project results. Please include the Service award number on all reports.

The recipient must follow the final Federal Financial Report and the final Performance Report reporting period end dates and due dates provided in GrantSolutions. The final reporting due dates are available by signing in to GrantSolutions and selecting the menu for Reports>Federal Financial Report or Reports>FFR.

### 6. Reporting Due Date Extensions

Reporting due dates may be extended for an award upon request to the Service Project Officer identified in the notice of award. The request should be sent by selecting the award in GrantSolutions and selecting send message. The message must include the type of report to be extended, the requested revised due date, and a justification for the extension. The Service may approve an additional extension if justified by a catastrophe that significantly impairs the award Recipient’s operations. The recipient must submit reporting due date extension requests through GrantSolutions to the Service Project Officer identified in their notice of award before the original due date. The Service Project Officer will respond to the recipient after approval or denial of the extension request.

### 7. Significant Developments Reports

See [2 CFR §200.329\(e\)](#). Events may occur between the scheduled performance reporting dates that have significant impact upon the supported activity. In such cases, recipients are required to notify the Service in writing as soon as the recipient becomes aware of any problems, delays, or adverse conditions that will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of any corrective action(s) taken or contemplated, and any assistance needed to resolve the situation. The recipient should also notify the Service in writing of any favorable developments that enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

## Terms and Conditions

### 1. Buy America Provision for Infrastructure

#### Required Use of American Iron, Steel, Manufactured Products, and Construction Materials for Infrastructure

Per 2 CFR Part 184, none of the funds provided under this award may be used for a project for infrastructure unless:

1. All iron and steel used in the project are produced in the United States. This means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States,
2. All manufactured products used in the project are produced in the United States. This means the manufactured product was manufactured in the United States, and the cost of the components of the manufactured product that are mined,

## NOTICE OF AWARD (Continuation Sheet)

PAGE 5 of 9	DATE ISSUED 06/25/2024
GRANT NO. F24AF01841-00	

produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation, and

3. All construction materials are manufactured in the United States. This means that all manufacturing processes for the construction material occurred in the United States. For construction material standards, see 2 CFR §184.6.

This Buy America preference only applies to articles, materials, and supplies consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

### **Department of the Interior (DOI) General Applicability Waivers**

There may be instances where an award qualifies, in whole or in part, for an existing DOI general applicability waiver. Recipients are responsible for determining if an approved waiver applies to their project. A list of active waivers is available at: [www.doi.gov/grants/BuyAmerica/GeneralApplicabilityWaivers](http://www.doi.gov/grants/BuyAmerica/GeneralApplicabilityWaivers). As new waivers may be issued at any time, we recommend Recipients frequently check this web page through the life of their project. If an active waiver applies to the project, the Recipient must retain a record of the applicable waiver per 2 CFR §200.334 recordkeeping requirements. If the specific financial assistance agreement, infrastructure project, or non-domestic materials meets the criteria of an existing general applicability waiver within the limitations defined within the waiver, the Recipient does not need to request a separate waiver for non-domestic materials.

### **Waiver Requests**

When necessary, recipients may apply for, and the DOI may grant, a waiver from these requirements, subject to review by the Made in America Office. Per 2 CFR §184.7, the DOI may waive the application of the domestic content procurement preference in any case in which it is determined that one of the below circumstances applies:

1. Non-availability Waiver: the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality,
2. Unreasonable Cost Waiver: the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent, or
3. Public Interest Waiver: applying the domestic content procurement preference would be inconsistent with the public interest.

If a general applicability waiver does not already apply, and the Recipient believes that one of the above circumstances applies to an award, the Recipient may submit a request to waive the application of the domestic content procurement preference.

### **Waiver Submission Instructions**

Recipients must submit all waiver requests to the Service in writing. Email all waiver requests to [fwhqfasupport@fws.gov](mailto:fwhqfasupport@fws.gov). Please use the subject line: "Buy America Waiver Request". Include the following information with each waiver request:

1. Type of waiver requested (non-availability, unreasonable cost, or public interest)
2. Requesting entity name and Unique Entity Identifier (UEI)
3. Federal awarding agency: U.S. Fish and Wildlife Service, DOI

# NOTICE OF AWARD (Continuation Sheet)

PAGE 6 of 9	DATE ISSUED 06/25/2024
GRANT NO. F24AF01841-00	

4. Awarding program Assistance Listing number and title (Notice of Award, Block 2)
5. Project title (Notice of Award, Block 8)
6. Federal Award Identification Number (Notice of Award, Block 4)
7. Federal award amount (Notice of Award, Block 11)
8. Total estimated infrastructure costs, to the extent know (federal and non-federal funds)
9. Infrastructure project description and location, to the extent known
10. List of iron or steel item(s), manufactured goods, and construction material(s) proposed to be waived from the Buy America requirements. Include the name, cost, country of origin, if known, and relevant PSC or NAICS code for each (see <https://psctool.us/> and <https://www.census.gov/naics/>).
11. A certification that the Recipient made a good faith effort to solicit bids for domestic products supported by terms included in requests for proposals, contracts, and nonproprietary communications with the prime contractor.
12. A statement of waiver justification, including a description of the Recipient's efforts (e.g., market research, industry outreach) to avoid the need for a waiver. Such a justification may cite, if applicable, the absence of any Buy America-compliant bids received in response to a solicitation. For market research conducted, provide details on when it was conducted, and the sources and methods used.
13. Anticipated impact if no waiver is issued.

Do not include any Privacy Act information, sensitive data, or proprietary information with the waiver request.

## Waiver Review Process

The Department will post waiver requests to [www.doi.gov/grants/buyamerica](http://www.doi.gov/grants/buyamerica) for the required 15-day public comment period. The Made in America Office will also review all waiver requests. The Department will post approved waivers at [www.doi.gov/grants/BuyAmerica/ApprovedWaivers](http://www.doi.gov/grants/BuyAmerica/ApprovedWaivers). The Service will notify Recipients of waiver request determinations by email. Waivers may be granted after an award has been issued. However, an approved waiver will not retroactively apply to expenditures already incurred under the award before the effective date of the waiver. Any such expenditures are subject to the Buy America preferences for infrastructure.

## Definitions

The terms used in this provision have the meanings given in 2 CFR §184.3.

## 2. U.S. Fish and Wildlife Service

### General Award Terms and Conditions

Recipients of U.S. Fish and Wildlife Service (Service) grant and cooperative agreement awards (hereafter referred to as 'awards') are subject to the terms and conditions incorporated into their Notice of Award either by direct citation or by reference to Federal regulations; program legislation or regulation; and special award terms and conditions. Award terms and conditions are applicable unless and until the USFWS removes or revises them in written notice to the recipient. The Service will make such changes by issuing a written notice that describes the change and provides the effective date.

Recipients indicate their acceptance of an award by starting work, drawing down funds, or accepting the award via electronic means. Recipient acceptance of an award carries with it the responsibility to be aware of and comply with all terms and conditions

# NOTICE OF AWARD (Continuation Sheet)

PAGE 7 of 9	DATE ISSUED 06/25/2024
GRANT NO. F24AF01841-00	

applicable to the award. Recipients are responsible for ensuring that their subrecipients and contractors are aware of and comply with applicable award statutes, regulations, and terms and conditions. Recipient failure to comply with award terms and conditions can result in the Service taking one or more of the remedies and actions described in Title 2 of the Code of Federal Regulations (CFR) §§200.339—343.

A library of the Service's general award terms and conditions with embedded links to all regulations is available on the Service's website at: <https://www.fws.gov/library/collections/financial-assistance-general-award-terms-and-conditions>. Refer to the general terms and conditions in this library in effect as of the signature date on your award. See also the Department of the Interior's General Award Terms and Conditions on their website at: <https://www.doi.gov/grants/doi-standard-terms-and-conditions>.

## **Administrative Requirements, Cost Principles, and Audit Requirements**

These requirements and cost principles are applicable to all awards except those to individuals receiving the award separate from any business or organization they may own or operate. Foreign public entities and foreign organizations must comply with special considerations and requirements specific to their entity type, unless otherwise stated in this section. Foreign public entities must comply with those for states.

### **2 CFR Part 200, Subparts A—D, as supplemented by 2 CFR Part 1402**

Foreign public entities must follow payment procedures in 2 CFR §200.305(b). For foreign public entities and foreign organizations, the requirements in 2 CFR §§200.321—323 do not apply.

### **Appendix XII to 2 CFR Part 200—Recipient Integrity and Performance Matters**

Applicable to awards with a total Federal share of more than \$500,000 except for awards of any amount to foreign public entities.

### **2 CFR Part 200, Subpart E—Cost Principles**

Applicable to all domestic and foreign non-Federal entities except non-profit organizations identified in Appendix VIII to 2 CFR Part 200. Non-Federal entities include for-profit organizations.

### **48 CFR Subpart 31.2—Contracts with Commercial Organizations**

Applicable to non-profit organizations identified in Appendix VIII to 2 CFR Part 200.

### **Indirect Cost Proposals**

Requirements for development and submission of indirect cost rate proposals are contained in Appendix III (Institutions of Higher Education), Appendix IV (Nonprofit organizations), and Appendix VII (States, local government agencies, and Indian tribes) to 2 CFR Part 200. See also the DOI negotiated indirect cost rate deviation policies at 2 CFR §1402.414. For-profit entities should contact the DOI National Business Center, Office of Indirect Cost Rate Services at: <https://ibc.doi.gov/ICS/indirect-cost>.

### **2 CFR Part 200, Subpart F—Audit Requirements**

Applicable to U.S. states, local governments, Indian tribes, institutions of higher education, and nonprofit organizations. Not applicable to foreign public entities, foreign organizations, or for-profit entities.

### **Statutory and National Policy Requirements**

These requirements are applicable to all awards, including those to individuals, for-profits, foreign public entities, and foreign organizations, unless otherwise stated in this section.

### **Appendix A to 2 CFR Part 25—Universal Identifier and System for Award Management**

# NOTICE OF AWARD (Continuation Sheet)

PAGE 8 of 9	DATE ISSUED 06/25/2024
GRANT NO. F24AF01841-00	

Not applicable to individuals or any entity exempted by the awarding bureau or office prior to award per 2 CFR §25.110(c)(2) and bureau or office policy.

## **Appendix A to 2 CFR Part 170—Award term for reporting subaward and executive compensation**

Not applicable to individuals. See 2 CFR 170 for other exceptions.

## **2 CFR §175.15—Award Term for Trafficking in Persons**

Applicable to private entities as defined in 2 CFR §175.25(d), states, local governments, and Indian tribes. Applicable to foreign public entities if funding could be provided to a private entity as a subrecipient under the award.

## **2 CFR Part 184—Buy America Preference for Infrastructure Projects**

None of the funds under a Federal award may be obligated for an infrastructure project unless all the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. This part applies to an entire infrastructure project even if funded by Federal and non-Federal funds under one or more awards. Recipients must include this preference in all subawards, contracts, and purchase orders related to infrastructure projects under Federal awards. Service awards subject to this preference will include a Buy America Provision for Infrastructure.

## **2 CFR Part 1400—Nonprocurement Debarment and Suspension**

All recipients must ensure they do not enter into any covered transaction with an excluded or disqualified participant or principal. See also 2 CFR Part 180—OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement). 2 CFR §180.215 defines nonprocurement transactions that are not covered transactions.

## **2 CFR Part 1401—Requirements for Drug-Free Workplace (Financial Assistance)**

Not applicable to foreign public entities or foreign organizations.

## **43 CFR Part 18—New Restrictions on Lobbying**

Recipients are prohibited from using any federally appropriated funds (annually appropriated or continuing appropriations) or matching funds under a Federal award to pay any person for lobbying in connection with the award. Lobbying is influencing or attempting to influence an officer or employee of any U.S. agency, a Member of the U.S. Congress, or an officer or employee of a Member of the U.S. Congress in connection with the award.

## **41 U.S.C. §4712—Whistleblower Protection for Contractor and Grantee Employees**

## **41 U.S.C. §6306—Prohibition on Members of Congress Making contracts with Federal Government**

### **Mandatory Disclosures**

Failure to make required disclosures may result in any of the remedies for noncompliance described in 2 CFR §200.339, including suspension or debarment (see also 2 CFR Part 180).

**Conflicts of interest:** Per 2 CFR §1402.112, non-Federal entities and their employees must take appropriate steps to avoid conflicts of interest in their responsibilities under or with respect to Federal financial assistance agreements. In the procurement of supplies, equipment, construction, and services by recipients and by subrecipients, the provisions in 2 CFR §200.318 apply. Non-Federal entities, including applicants for financial assistance awards, must disclose in writing any conflict of interest to the DOI awarding agency or pass-through entity in accordance with 2 CFR §200.112. Recipients must establish internal controls that include, at a minimum, procedures to identify, disclose, and mitigate or eliminate identified conflicts of interest. The recipient is



NOTICE OF AWARD (Continuation Sheet)

PAGE 9 of 9	DATE ISSUED 06/25/2024
GRANT NO. F24AF01841-00	

responsible for notifying the Service Project Officer identified in their notice of award in writing of any conflicts of interest that may arise during the life of the award, including those that reported by subrecipients. The Service will examine each disclosure to determine whether a significant potential conflict exists and, if it does, work with the applicant or recipient to develop an appropriate resolution. Failure to resolve conflicts of interest in a manner that satisfies the government may be cause for termination of the award.

**Lobbying:** If the Federal share of the award is more than \$100,000, recipients must disclose making or agreeing to make any payment using non-appropriated funds for lobbying in connection with the award. To make such disclosures, recipients must complete and submit the SF-LLL, “Disclosure of Lobbying Activities” form to the USFWS. This form is available at: <https://www.grants.gov/forms/forms-repository/post-award-reporting-forms>. For more information on when additional submission of this form is required, see 43 CFR, Subpart 18.100. These restrictions are not applicable to such expenditures by Indian tribe, tribal organization, or any other Indian organization that is specifically permitted by other Federal law.

**Other Mandatory Disclosures:** Recipients and subrecipients must disclose, in a timely manner, in writing to the Service Project Officer identified in their notice of award or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Non-Federal entities subject to the 2 CFR 200, Appendix XII—Award Term and Condition for Recipient Integrity and Performance Matters are required to report certain civil, criminal, or administrative proceedings to SAM.

**National Policy Encouragements**

**Executive Order 13043—Increasing Seat Belt Use in the United States**

Non-Federal entities are encouraged to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented, or personally owned vehicles. Individuals are encouraged to use seat belts while driving in connection with award activities.

**E. O. 13513—Federal Leadership on Reducing Text Messaging While Driving**

Non-Federal entities are encouraged to adopt and enforce policies that ban text messaging while driving, including conducting initiatives of the type described in section 3(a) of the order. Individuals are encouraged to not text message while driving in connection with award activities.

## Attachment I

### Federally Required Contract Provisions

#### Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by [41 U.S.C. 1908](#), must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under [41 CFR Part 60](#), all contracts that meet the definition of “federally assisted construction contract” in [41 CFR Part 60-1.3](#) must include the equal opportunity clause provided under [41 CFR 60-1.4\(b\)](#), in accordance with Executive Order 11246, “Equal Employment Opportunity” ([30 FR 12319, 12935, 3 CFR Part, 1964-1965](#) Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at [41 CFR part 60](#), “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

(D) Davis-Bacon Act, as amended ([40 U.S.C. 3141-3148](#)). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act ([40 U.S.C. 3141-3144](#), and [3146-3148](#)) as supplemented by Department of Labor regulations ([29 CFR Part 5](#), “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act ([40 U.S.C. 3145](#)), as supplemented by Department of Labor regulations ([29 CFR Part 3](#), “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any

means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act ([40 U.S.C. 3701-3708](#)). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with [40 U.S.C. 3702](#) and [3704](#), as supplemented by Department of Labor regulations ([29 CFR Part 5](#)). Under [40 U.S.C. 3702](#) of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of [40 U.S.C. 3704](#) are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under [37 CFR § 401.2 \(a\)](#) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of [37 CFR Part 401](#), “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) Clean Air Act ([42 U.S.C. 7401-7671q.](#)) and the Federal Water Pollution Control Act ([33 U.S.C. 1251-1387](#)), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act ([42 U.S.C. 7401-7671q](#)) and the Federal Water Pollution Control Act as amended ([33 U.S.C. 1251-1387](#)). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see [2 CFR 180.220](#)) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at [2 CFR 180](#) that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment ([31 U.S.C. 1352](#)) - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or

organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by [31 U.S.C. 1352](#). Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See [§ 200.323](#).

(K) See [§ 200.216](#).

(L) See [§ 200.322](#).

[[78 FR 78608](#), Dec. 26, 2013, as amended at [79 FR 75888](#), Dec. 19, 2014; [85 FR 49577](#), Aug. 13, 2020]

## FEDERAL CERTIFICATION REGARDING LOBBYING

*Certification for Contracts, Grants, Loans, and Cooperative Agreements* APPENDIX A, 44 C.F.R. PART 18

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an 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 and disclose 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.

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

\_\_\_\_\_  
Signature of Contractor's Authorized Official

\_\_\_\_\_  
Name and Title of Contractor's Authorized Official

\_\_\_\_\_  
Date