

GEORGIA DEPARTMENT OF NATURAL RESOURCES
LAND AND WATER CONSERVATION FUND
PROJECT AGREEMENT GENERAL PROVISIONS

Part I - Definitions

- A. The term "NPS" or "Service" as used herein means the National Park Service, United States Department of the Interior.
- B. The term "DNR" as used herein means the Department of Natural Resources, State of Georgia.
- C. The term "Secretary" as used herein means the Secretary of the Interior, or any representative lawfully delegated the authority to act for such Secretary.
- D. The term "Commissioner" as used herein means the Commissioner of the Department of Natural Resources, or any representative lawfully delegated the authority to act for such Commissioner.
- E. The term "SLO" as used herein means the State Liaison Officer for the Department of Natural Resources, or any representative lawfully delegated the authority to act for such SLO.
- F. The term "grant" as used herein means a grant of monies awarded pursuant to the Land and Water Conservation Fund Act of 1965.
- G. The term "Applicant" as used herein means the state agency, city, county, commission, authority, or other local entity which is a recipient of a grant. The terms "applicant," "grantee," and "recipient" are deemed synonymous.
- H. The term "project agreement" as used herein means the Department of Natural Resources Land and Water Conservation Fund Project Agreement entered into between DNR and the Applicant and which governs the acceptance and usage of the grant.
- I. The term "manual" as used herein means the Land and Water Conservation Fund State Assistance Program Manual.
- J. The term "project" as used herein means a Land and Water Conservation Fund grant, which is subject to the project agreement and any subsequent amendments.
- K. The term "State" as used herein means the state of Georgia.

Part II - Continuing Assurances

The parties to the project agreement specifically recognize that the Land and Water Conservation Fund (hereinafter LWCF or the Fund) project creates an obligation to maintain the property described in the project agreement and supporting application documentation consistent with the Land and Water Conservation Fund Act of 1965 (hereinafter the Act or the LWCF Act) and the following requirements.

Further, it is the acknowledged intent of the parties hereto that the recipient of assistance will use monies granted hereunder for the purposes of this program, and that assistance granted from the Fund will result in a net increase, commensurate at least with the federal cost-share, in a participant's outdoor recreation.

It is intended by both parties hereto that assistance from the Fund will be added to, rather than replace or be substituted for, state and local outdoor recreation funds.

- A. The Applicant agrees, as recipient of this assistance, that it will meet the specific requirements of these general provisions and that it will further impose these requirements, and the terms of the project agreement, upon any political subdivision or office thereof, or public agency to which funds are transferred pursuant to the project agreement. The Applicant also agrees that it shall be responsible for compliance with the terms of the project agreement by such a political subdivision or office thereof, or public agency and that failure by such political subdivision, or office thereof, or public agency to so comply shall be deemed a failure by the Applicant to comply with the terms of this project agreement.

- B. The Applicant agrees that the property described in the project agreement and, if applicable, the signed and dated project boundary map made part of that agreement, is being acquired or developed with Land and Water Conservation Fund assistance, or is integral to such acquisition or development, and that, without the approval of the SLO and the Secretary, it shall not be converted to other than public outdoor recreation use but shall be maintained in public outdoor recreation in perpetuity or for the term of the lease in the case of leased property. The SLO and the Secretary shall approve such conversion only if it is found to be in accord with The Georgia Planning Act, The Service Delivery Strategy Law, and any other then existing comprehensive statewide outdoor recreation plan and only upon such conditions deemed necessary to assure the substitution of other recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location pursuant to Title 36 Part 59.3 of the *Code of Federal Regulations*. This replacement land becomes subject to Section 6(f)(3) protection. Applicant agrees and understands that final approval for any such conversion is at the sole discretion of the Secretary.

Prior to the completion of this project, and subject to final approval by the Secretary, the Applicant and the SLO may mutually alter the area described in the project agreement and, if applicable, the signed and dated project boundary map, to provide the most satisfactory public outdoor recreation unit, except that acquired parcels are afforded Section 6(f)(3) protection.

In the event the NPS and DNR provide Land and Water Conservation Fund assistance for the acquisition and/or development of property with full knowledge that the project is subject to reversionary rights and outstanding interests, conversion of said property to other than public outdoor recreation uses as a result of such right or interest being exercised will occur. In receipt of this approval, the Applicant agrees to notify DNR of the potential conversion as soon as possible and to seek approval of replacement property in accord with the conditions set forth in these provisions and program regulations. The provisions of this paragraph are also applicable to: leased properties acquired and/or developed with Fund assistance where such lease is terminated prior to its full term due to the existence of provisions in such lease known and agreed to by NPS and DNR; and properties subject to other outstanding rights and interests that may result in a conversion when known and agreed to by NPS and DNR.

- C. The Applicant agrees that the benefit to be derived by the State and the United States from the full compliance by the Applicant with the terms of this agreement is the preservation, protection, and the net increase in the quality of public outdoor recreation facilities and resources which are available to the people of the State and of the United States, and such benefit exceeds to an immeasurable and unascertainable extent the amount of money furnished by the State and the United States by way of LWCF assistance. The Applicant agrees that payment by the Applicant to DNR or the United States of an amount equal to the amount of assistance extended under the project agreement by DNR and the United States would be inadequate compensation to DNR and the United States for any breach by the Applicant of the project agreement.

The Applicant further agrees, therefore, that the appropriate remedy in the event of a breach by the Applicant of the project agreement shall be the specific performance of said agreement or the submission and approval of a conversion-of-use request as described in Part II.B above.

- D. The Applicant agrees to comply with the manual policies and procedures. Provisions of the manual are incorporated into and made a part of the project agreement.
- E. The Applicant agrees that the property and facilities described in the project agreement shall be operated and maintained as prescribed by applicable Manual requirements and applicable published post-completion compliance regulations (Title 36 Part 59 of the *Code of Federal Regulations*).
- F. The Applicant agrees that a permanent record shall be kept in its public property records and available for public inspection to the effect that the property described in the scope of the project agreement, and if applicable, the signed and dated project boundary map made part of that agreement, has been acquired or developed with Land and Water Conservation Fund assistance and that it cannot be converted to other than public outdoor recreation use without the written approval of the SLO and the Secretary.

Part III - Project Assurances

- A. The Applicant shall comply with applicable state and federal regulations, policies, guidelines and requirements as they relate to the application, acceptance and use of federal funds for the project, including:

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

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

43 CFR Part 18, New Restrictions on Lobbying;

FAR Clause 52.203-12, Paragraphs (a) and (b), Limitation on Payments to Influence Certain Federal Transactions;

2 CFR Part 25, System for Award Management (www.SAM.gov) and Data Universal Numbering System (DUNS); and

2 CFR Part 170, Reporting Subawards and Executive Compensation

B. Project Application

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

C. Project Execution

1. The project period shall begin with the date of approval of the project agreement or the effective date of a waiver of retroactivity and shall terminate at the end of the stated or amended project period unless the project is completed or terminated sooner in which event the project shall end on the date of completion or termination.
2. DNR shall transfer to the Applicant all funds granted hereunder except those reimbursed to DNR to cover eligible administrative expenses.
3. The Applicant will cause work on the project to be commenced within a reasonable time after receipt of notification that funds have been approved and assure that the project will be implemented to completion with reasonable diligence.
4. The Applicant shall secure completion of the work in accordance with approved construction plans and specifications, and shall secure compliance with all applicable federal, state, and local laws and regulations.
5. In the event the project covered by the project agreement cannot be completed in accordance with the plans and specifications for the project, the Applicant shall bring the project to a point of recreational usefulness agreed upon by the SLO and the Secretary.
6. The Applicant will provide for and maintain competent and adequate architectural/engineering supervision and

inspection at the construction site to insure that the completed work conforms to the approved plans and specifications and will furnish progress reports and such other information as the DNR may require.

7. The Applicant will require the facility to be designed to comply with the Architectural Barriers Act of 1968, as amended (Public Law 90-480), relating to accessibility standards. The Applicant will be responsible for conducting inspections to insure compliance with these specifications.
8. The Applicant will comply with the terms of Title II and Title III, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (P.L. 91-646), 94 Stat. 1894 (1970), and the applicable regulations and procedures implementing the same for all real property acquisitions, and where applicable, shall assure that the same has been complied with for property to be developed with assistance from the grant.
9. The Applicant will comply with the provisions of: Executive Order 11988, relating to evaluation of flood hazards; Executive Order 11288, relating to the prevention, control, and abatement of water pollution, and Executive Order 11990 relating to the protection of wetlands.
10. The Applicant will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (Public Law 93-234) and the applicable manual provisions relating to flood insurance and requirements. Section 102(a) requires the purchase of flood insurance in communities where such insurance is available, as a condition for the receipt of any federal financial assistance for construction or acquisition purposes, for use in any area that has been identified as an area having special flood hazards by the Flood Insurance Administration of the federal Emergency Management Agency.
11. The Applicant will assist the NPS in its compliance with Section 106 of the National Historic Preservation Act of 1966 as amended (16 U.S.C. 470), Executive Order 11593, and the Archaeological and Historic Preservation Act of 1966 (16 U.S.C. 469a-1 et seq.) by (a) consulting with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to effects (see CFR Part 800.8) by the activity, and notifying the DNR and NPS of the existence of any such properties, and by (b) complying with all requirements established by NPS to avoid or mitigate adverse effects upon such properties.
12. The Applicant will comply with "Minority Business Enterprises" and "Women's Business Enterprises" pursuant to Executive Orders 11625, 12138, and 12432 as follows:
 - a) Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.
 - b) Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.
 - c) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.
 - d) Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.
 - e) Use the services and assistance, as appropriate, of such organizations as the Small Business Development Agency in the solicitation and utilization of small business, minority-owned firms and women's business enterprises.

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

13. Applicant shall comply with the applicable provisions of 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5), relating to the employment of mechanics or laborers.

14. Applicant shall comply with the applicable standards, orders and/or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251et seq.).

D. Contracts for Construction

1. Applicant shall comply with the applicable provisions of the equal opportunity clause as found in 41 CFR 60-1.4, 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."
2. Applicant shall comply with the applicable provisions of 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").
3. Applicant shall comply with the applicable provisions of 2 CFR 200.

E. Retention and Custodial Requirements for Records

1. All Applicant financial and programmatic records, supporting documents, statistical records, and all other grant-related records shall be retained in accordance with 2 CFR 200.333 to .337 for a period of three years; except the records shall be retained beyond the three-year period if audit findings have not been resolved.
2. The retention period starts from the date of the final expenditure report for the project.
3. State and local governments are authorized to substitute copies in lieu of original records.
4. The Secretary, the Comptroller General of the United States, and the SLO, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Applicant and their related departments which are pertinent to a specific project for the purpose of making audit, examination, excerpts and transcripts.

F. Project Termination

1. The Secretary or the SLO may temporarily suspend fund assistance under the project pending corrective action by the Applicant or pending a decision to terminate the grant by the NPS.
2. The Applicant may unilaterally terminate the project at any time prior to the first payment on the project. After the initial payment, the project may be terminated, modified, or amended by the Applicant only by mutual agreement with the NPS.
3. The Secretary or the SLO may terminate the project in whole, or in part, at any time before the date of completion, whenever it is determined that the grantee has failed to comply with the conditions of the grant. The SLO will promptly notify the Applicant in writing of the determination and the reasons for the termination, together with the effective date. Payments made to Applicants or recoveries by the NPS and the DNR under projects terminated for cause shall be in accord with the legal rights and liabilities of the parties.
4. The Secretary, the SLO, or the Applicant may terminate grants in whole, or in part, at any time before the date of completion, when all parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The Applicant shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The NPS and the DNR may allow full credit to the Applicant for the federal

share of the noncancelable obligations, properly incurred by the Applicant prior to termination.

5. Termination either for cause or for convenience requires that the project in question be brought to a state of recreational usefulness agreed upon by the Applicant, the SLO, and the Secretary or that all grant funds provided pursuant to the project agreement be returned.

G. Lobbying with Appropriated Funds

For recipients of grants in excess of \$100,000, the provisions of 31U.S.C. 1352 must be certified as follows.

The Applicant certifies by execution of this agreement, 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 accordingly.

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

H. Nondiscrimination

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

THE APPLICANT HEREBY GIVES ASSURANCE THAT it will immediately take any measures necessary to effectuate this agreement.

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

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

obligate the Applicant for the period during which the federal financial assistance is extended to it.

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

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

The Applicant agrees that it shall not discriminate against any person on the basis of residence, except to the extent that reasonable differences in admission or other fees may be maintained on the basis of residence as set forth in the Manual.

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

The Applicant certifies, by submission of this agreement, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. If the Applicant is unable to make such certification, the Applicant must attach an explanation to the agreement for submission to NPS.

J. Audit Requirements

- 1) Non-federal entities that expend \$750,000 or more during a year in federal awards shall have a single or program-specific audit conducted for that year in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501 et seq.) and 2 CFR Part 200, Subpart F, which is available at <http://www.ecfr.gov/cgi-bin/text-idx?SID=fd6463a517ceea3fa13e665e525051f4&node=sp2.1.200.f&rgn=div6>.
- 2) Non-federal entities that expend less than \$750,000 for a fiscal year in federal awards are exempt from federal audit requirements for that year, but records must be available for review or audit by appropriate officials of NPS, DNR, and General Accounting Office (GAO).
- 3) Audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial audits. Additional audit requirements applicable to this agreement are found at 2 CFR Part 200, Subpart F, as applicable.

K. Recipient Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights

- 1) This grant and employees working on this project will be subject to the whistleblower rights and remedies in the pilot program on recipient employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and section 3.908 of the Federal Acquisition Regulation.
- 2) The Applicant shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.
- 3) The Applicant shall insert the substance of this clause, including this subparagraph (3), in all subawards or subcontracts over the simplified acquisition threshold.

L. Reporting Executive Compensation

- 1) Reporting Total Compensation of Recipient Executives

- a. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—
- i. In the preceding fiscal year, you received—
 - a. 80 percent or more of your annual gross revenues from federal procurement contracts (and subcontracts) and federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - b. \$25,000,000 or more in annual gross revenues from federal procurement contracts (and subcontracts) and federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - ii. The public does not have access to information about the compensation of the executives 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. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>.)
- b. You must report to DNR the executive total compensation described above by the end of the month following the month in which this grant is made, and annually thereafter.

2) Definitions. For purposes of this section:

- a. “Executive” means officers, managing partners, or any other employees in management positions.
- b. “Total compensation” means the cash and noncash dollar value earned by the executive during the preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
 - i. Salary and bonus.
 - ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for 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.
 - iii. 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.
 - iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
 - v. Above-market earnings on deferred compensation which is not tax-qualified.
 - vi. 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.

M. Conflicts of Interest

1) The Applicant must establish safeguards to prohibit its employees and sub-recipients from using their positions for purposes that constitute or present the appearance of a personal or organizational conflict of interest. The Applicant is responsible for notifying DNR in writing of any actual or potential conflicts of interest that may arise during the life of this agreement. Conflicts of interest include any relationship or matter which might place the Applicant or its employees in a position of conflict, real or apparent, between their responsibilities under the agreement and any other outside interests. Conflicts of interest may also include, but are not limited to, direct or

indirect financial interests, close personal relationships, positions of trust in outside organizations, consideration of future employment arrangements with a different organization, or decision-making affecting the agreement that would cause a reasonable person with knowledge of the relevant facts to question the impartiality of the Applicant and/or Applicant's employees and sub-recipients in the matter.

2) DNR and, if applicable, the servicing Ethics Counselor for the Department of the Interior, will determine if a conflict of interest exists. If a conflict of interest exists, DNR and NPS will determine the feasibility of a mitigation plan. Any such plan must be approved in writing by DNR and NPS.

3) Failure to resolve a conflict of interest in a manner that satisfies DNR and NPS may be cause for termination of the grant. Failure to make required disclosures may result in any of the remedies described in 2 CFR § 200.338, Remedies for Noncompliance, including suspension or debarment (see also 2 CFR Part 180).

4) The Applicant must comply with the applicable portions of 2 CFR Part 1402.

N. Reporting of Matters Related to Recipient Integrity and Performance

1) General Reporting Requirement

For grants where the LWCF share is \$500,000 or greater, the recipient agrees to provide to DNR the information necessary for DNR to comply with the reporting requirements described to 41 U.S.C. 2313 as to integrity and performance matters. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for federal procurement contracts, will be publicly available.

2) You must submit to DNR the information required about each proceeding that:

- a) Is in connection with the award or performance of the grant;
- b) Reached its final disposition during the most recent five year period; and
- c) Is one of the following:
 - i) A criminal proceeding that resulted in a conviction, as defined in paragraph (4) of this section;
 - ii) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
 - iii) An administrative proceeding, as defined in paragraph (4) of this section, that resulted in a finding of fault and liability and payment of either a monetary fine or penalty of \$5,000 or more; or reimbursement, restitution, or damages in excess of \$100,000; or
 - iv) Any other criminal, civil, or administrative proceeding if:
 1. It could have led to an outcome described in paragraph (2)(c)(i), (2)(c)(ii), or (2)(c)(iii) above;
 2. It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and
 3. The requirement to disclose information about the proceeding does not conflict with applicable laws and regulations.

3) Reporting Frequency

During any period of time when you are subject to the requirement of this section, you must report proceedings information for the most recent five year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

4) Definitions. For purposes of this section:

- a) “Administrative proceeding” means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the federal and state level but only in connection with performance of a federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.
- b) “Conviction” means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.
- c) “Total value of currently active grants, cooperative agreements, and procurement contracts” includes:
 - i) Only the federal share of the funding under any federal award with a recipient cost share or match; and
 - ii) The value of all expected funding increments under a federal award and options, even if not yet exercised.

O. Special Provisions

If applicant is an entity other than a state government, a local government, or a federally recognized Indian tribal government, then Applicant agrees to the following provisions regarding public information and endorsements.

1) **Public Information and Endorsements**

- a) Recipient shall not publicize or otherwise circulate promotional material (such as advertisements, sales brochures, press releases, speeches, still and motion pictures, articles, manuscripts, or other publications) which states or implies governmental, Departmental, bureau, or government employee endorsement of a business, product, service, or position which the Recipient represents. No release of information relating to this award may state or imply that the Government approves of the Recipient’s work products, or considers the Recipient’s work product to be superior to other products or services.
- b) All information submitted for publication or other public releases of information regarding this project shall carry the following disclaimer.
- c) The views and conclusions contained in this document are those of the authors and should not be interpreted as representing the opinions or policies of the U.S. Government. Mention of trade names or commercial products does not constitute their endorsement by the U.S. Government.
- d) Recipient must obtain prior Government approval for any public information releases concerning this award which refer to the Department of the Interior or any bureau or employee (by name or title). The specific text, layout photographs, etc. of the proposed release must be submitted with the request for approval.
- e) Recipient further agrees to include this provision in a subaward to a subrecipient, except for a subaward to a State government, a local government, or to a federally recognized Indian tribal government.

2) **Trafficking in Persons**

This term of award is pursuant to paragraph (g) of Section 106 of the Trafficking Victims Protections Act of 2000, as amended (2 CFR Section 175.15).

If Applicant is a private entity, Applicant agrees to the following provisions:

- 1. You as the Recipient, your employees, subrecipients under this award, and subrecipients’ employees may not–

- i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
- ii. Procure a commercial sex act during the period of time that the award is in effect; or
- iii. Use forced labor in the performance of the award or subawards under the award.

For purposes of this Section, the following definitions apply.

- 1. “Employee” means either:
 - i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
 - ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
- 2. “Forced labor” means labor obtained by any of the following methods: The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
- 3. “Private entity” means:
 - i. Any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25; and
 - ii. Includes:
 - a. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).
 - b. A for-profit organization.
- 4. “Severe forms of trafficking in persons,” “commercial sex act,” and “coercion” have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

3) **Minimum Wages Under Executive Order 13658 (January 2015)**

(a) *Definitions.* As used in this clause—

“United States” means the 50 states and the District of Columbia.

“Worker”—

(1) Means any person engaged in performing work on, or in connection with, an agreement covered by [Executive Order 13658](#), and

(i) Whose wages under such agreements are governed by the Fair Labor Standards Act (29 U.S.C. chapter 8), the Service Contract Labor Standards statute (41 U.S.C. chapter 67), or the Wage Rate Requirements (Construction) statute (40 U.S.C. chapter 31, subchapter IV),

(ii) Other than individuals employed in a bona fide executive, administrative, or professional capacity, as

those terms are defined in [29 C.F.R. § 541](#),

(iii) Regardless of the contractual relationship alleged to exist between the individual and the employer.

(2) Includes workers performing on, or in connection with, the agreement whose wages are calculated pursuant to special certificates issued under [29 U.S.C. § 214\(c\)](#).

(3) Also includes any person working on, or in connection with, the agreement and individually registered in a bona fide apprenticeship or training program registered with the Department of Labor's Employment and Training Administration, Office of Apprenticeship, or with a State Apprenticeship Agency recognized by the Office of Apprenticeship.

(b) *Executive Order Minimum Wage rate.*

(1) The Recipient shall pay to workers, while performing in the United States, and performing on, or in connection with, this agreement, a minimum hourly wage rate of \$10.10 per hour beginning January 1, 2015.

(2) The Recipient shall adjust the minimum wage paid, if necessary, beginning January 1, 2016 and annually thereafter, to meet the Secretary of Labor's annual E.O. minimum wage. The Administrator of the Department of Labor's Wage and Hour Division (the Administrator) will publish annual determinations in the Federal Register no later than 90 days before the effective date of the new E.O. minimum wage rate. The Administrator will also publish the applicable E.O. minimum wage on www.wdol.gov (or any successor Web site) and on all wage determinations issued under the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute. The applicable published E.O. minimum wage is incorporated by reference into this agreement.

(3) (i) The Recipient may request a price adjustment only after the effective date of the new annual E.O. minimum wage determination. Prices will be adjusted only if labor costs increase as a result of an increase in the annual E.O. minimum wage, and for associated labor costs and relevant subaward costs. Associated labor costs shall include increases or decreases that result from changes in social security and unemployment taxes and workers' compensation insurance, but will not otherwise include any amount for general and administrative costs, overhead, or profit.

(ii) Subrecipients may be entitled to adjustments due to the new minimum wage, pursuant to paragraph (b)(2). Recipients shall consider any Subrecipient requests for such price adjustment.

(iii) The Awarding Officer will not adjust the agreement price under this clause for any costs other than those identified in paragraph (b)(3)(i) of this clause, and will not provide duplicate price adjustments with any price adjustment under clauses implementing the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute.

(4) The Recipient warrants that the prices in this agreement do not include allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

(5) The Recipient shall pay, unconditionally to each worker, all wages due free and clear without subsequent rebate or kickback. The Recipient may make deductions that reduce a worker's wages below the E.O. minimum wage rate only if done in accordance with [29 C.F.R. § 10.23](#), Deductions.

(6) The Recipient shall not discharge any part of its minimum wage obligation under this clause by furnishing fringe benefits or, with respect to workers whose wages are governed by the Service Contract Labor Standards statute, the cash equivalent thereof.

(7) Nothing in this clause shall excuse the Recipient from compliance with any applicable Federal or State prevailing wage law or any applicable law or municipal ordinance establishing a minimum wage higher than the E.O. minimum wage. However, wage increases under such other laws or municipal ordinances are

not subject to price adjustment under this subpart.

(8) The Recipient shall pay the E.O. minimum wage rate whenever it is higher than any applicable collective bargaining agreement(s) wage rate.

(9) The Recipient shall follow the policies and procedures in [29 C.F.R. § 10.24](#)(b) and 10.28 for treatment of workers engaged in an occupation in which they customarily and regularly receive more than \$30 a month in tips.

(c) (1) This clause applies to workers as defined in paragraph (a). As provided in that definition—

(i) Workers are covered regardless of the contractual relationship alleged to exist between the Recipient or Subrecipient and the worker;

(ii) Workers with disabilities whose wages are calculated pursuant to special certificates issued under [29 U.S.C. § 214](#)(c) are covered; and

(iii) Workers who are registered in a bona fide apprenticeship program or training program registered with the Department of Labor's Employment and Training Administration, Office of Apprenticeship, or with a State Apprenticeship Agency recognized by the Office of Apprenticeship, are covered.

(2) This clause does not apply to—

(i) Fair Labor Standards Act (FLSA) – covered individuals performing in connection with contracts covered by the E.O., *i.e.* those individuals who perform duties necessary to the performance of the agreement, but who are not directly engaged in performing the specific work called for by the agreement, and who spend less than 20 percent of their hours worked in a particular workweek performing in connection with such agreements;

(ii) Individuals exempted from the minimum wage requirements of the FLSA under [29 U.S.C. § 213](#)(a) and 214(a) and (b), unless otherwise covered by the Service Contract Labor Standards statute, or the Wage Rate Requirements (Construction) statute. These individuals include but are not limited to—

(A) Learners, apprentices, or messengers whose wages are calculated pursuant to special certificates issued under [29 U.S.C. § 214](#)(a).

(B) Students whose wages are calculated pursuant to special certificates issued under [29 U.S.C. § 214](#)(b).

(C) Those employed in a bona fide executive, administrative, or professional capacity ([29 U.S.C. § 213](#)(a)(1) and [29 C.F.R. § part 541](#)).

(d) *Notice.* The Recipient shall notify all workers performing work on, or in connection with, this agreement of the applicable E.O. minimum wage rate under this clause. With respect to workers covered by the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, the Contractor may meet this requirement by posting, in a prominent and accessible place at the worksite, the applicable wage determination under those statutes. With respect to workers whose wages are governed by the FLSA, the Recipient shall post notice, utilizing the poster provided by the Administrator, which can be obtained at www.dol.gov/whd/govcontracts, in a prominent and accessible place at the worksite. Recipients that customarily post notices to workers electronically may post the notice electronically provided the electronic posting is displayed prominently on any Web site that is maintained by the Recipient, whether external or internal, and customarily used for notices to workers about terms and conditions of employment.

(e) *Payroll Records.* (1) The Recipient shall make and maintain records, for three years after completion of the work, containing the following information for each worker:

- (i) Name, address, and social security number;
 - (ii) The worker's occupation(s) or classification(s);
 - (iii) The rate or rates of wages paid;
 - (iv) The number of daily and weekly hours worked by each worker;
 - (v) Any deductions made; and
 - (vi) Total wages paid.
- (2) The Recipient shall make records pursuant to paragraph (e)(1) of this clause available for inspection and transcription by authorized representatives of the Administrator. The Recipient shall also make such records available upon request of the Contracting Officer.
- (3) The Recipient shall make a copy of the agreement available, as applicable, for inspection or transcription by authorized representatives of the Administrator.
- (4) Failure to comply with this paragraph (e) shall be a violation of [29 C.F.R. § 10.26](#) and this agreement. Upon direction of the Administrator or upon the Awarding Officer's own action, payment shall be withheld until such time as the noncompliance is corrected.
- (5) Nothing in this clause limits or otherwise modifies the Recipient's payroll and recordkeeping obligations, if any, under the Service Contract Labor Standards statute, the Wage Rate Requirements (Construction) statute, the Fair Labor Standards Act, or any other applicable law.
- (f) *Access.* The Recipient shall permit authorized representatives of the Administrator to conduct investigations, including interviewing workers at the worksite during normal working hours.
- (g) *Withholding.* The Awarding Officer, upon his or her own action or upon written request of the Administrator, will withhold funds or cause funds to be withheld, from the Recipient under this or any other Federal agreement with the same Recipient, sufficient to pay workers the full amount of wages required by this clause.
- (h) *Disputes.* Department of Labor has set forth in [29 C.F.R. § 10.51](#), Disputes concerning Recipient compliance, the procedures for resolving disputes concerning an Recipient's compliance with Department of Labor regulations at [29 C.F.R. § 10](#). Such disputes shall be resolved in accordance with those. This includes disputes between the Recipient (or any of its Subrecipients) and the contracting agency, the Department of Labor, or the workers or their representatives.
- (i) *Antiretaliation.* The Recipient shall not discharge or in any other manner discriminate against any worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under or related to compliance with the E.O. or this clause, or has testified or is about to testify in any such proceeding.
- (j) *Subcontractor compliance.* The Recipient is responsible for Subrecipient compliance with the requirements of this clause and may be held liable for unpaid wages due Subrecipient workers.
- (k) *Subawards.* The Recipient shall include the substance of this clause, including this paragraph (k) in all subawards, regardless of dollar value, that are subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, and are to be performed in whole or in part in the United States.

P. Build America, Buy America

Note: This term effective as of January 13, 2023. For more information on Department of Interior’s approved waiver, see: Approved DOI General Applicability Waivers | U.S. Department of the Interior

As required by Section 70914 of the Bipartisan Infrastructure Law (also known as the Infrastructure Investment and Jobs Act), P.L. 117-58, on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance program for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products under this program. Recipients of an award of Federal financial assistance are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

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, 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.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project, but are not an integral part of the structure or permanently affixed to the infrastructure project.

For further information on the Buy America preference, please visit www.doi.gov/grants/BuyAmerica. Additional information can also be found at the White House Made in America Office website: www.whitehouse.gov/omb/management/made-in-america/.

Waivers

When necessary, recipients may apply for, and the Department of the Interior (DOI) may grant, a waiver from these requirements, subject to review by the Made in America Office. The DOI may 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.

There may be instances where an award qualifies, in whole or in part, for an existing DOI general applicability waiver as described at:

www.doi.gov/grants/BuyAmerica/GeneralApplicabilityWaivers.

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 is not required to request a separate waiver for non-domestic materials. If a general applicability waiver does not already apply, and a recipient believes that one of the above circumstances applies to an award, a request to waive the application of the domestic content procurement preference may be submitted to the financial assistance awarding officer in writing. Waiver requests shall include the below information. The waiver shall not include any Privacy Act information, sensitive data, or proprietary information within their waiver request. Waiver requests will be posted to www.doi.gov/grants/buyamerica and are subject to public comment periods of no less than 15 days. Waiver requests will also be reviewed by the Made in America Office.

1. Type of waiver requested (non-availability, unreasonable cost, or public interest).
2. Requesting entity and Unique Entity Identifier (UEI) submitting the request.
3. Department of Interior Bureau or Office who issued the award.
4. Federal financial assistance listing name and number (reference block 2 on DOI Notice of Award)
5. Financial assistance title of project (reference block 8 on DOI Notice of Award).
6. Federal Award Identification Number (FAIN).
7. Federal funding amount (reference block 11.m. on DO Notice of Award).
8. Total cost of Infrastructure expenditures (includes federal and non-federal funds to the extent known).
9. Infrastructure project description(s) and location(s) (to the extent known).
10. List of iron or steel item(s), manufactured goods, and construction material(s) the recipient seeks to waive from Buy America requirements. Include the name, cost, countries of origin (if known), and relevant PSC or NAICS code for each.
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 efforts made (e.g., market research, industry outreach) by the recipient, in an attempt 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.

13. Anticipated impact if no waiver is issued. Approved waivers will be posted at www.doi.gov/grants/BuyAmerica/ApprovedWaivers; recipients requesting a waiver will be notified of their waiver request determination by an awarding officer.

Questions pertaining to waivers should be directed to the financial assistance awarding officer.

Definitions

“Construction materials” includes an article, material, or supply that is or consists primarily of:

- Non-ferrous metals;
- Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- Glass (including optic glass);
- Lumber; or
- Drywall.

“Construction Materials” does not include cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives.

“Domestic content procurement preference” means all iron and steel used in the project are produced in the United States; the manufactured products used in the project are produced in the United States; or the construction materials used in the project are produced in the United States.

“Infrastructure” includes, at a minimum, the structures, facilities, and equipment for, in the United States, 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. Infrastructure includes facilities that generate, transport, and distribute energy.

“Project” means the construction, alteration, maintenance, or repair of infrastructure in the United States.

Q. Ensuring the future is made in all of America by all of America’s workers per E.O.14005 (dated January 25, 2021)

Per Executive Order 14005, entitled “Ensuring the Future is Made in All of America by All of America’s Workers” the Recipient shall maximize the use of goods, products, and materials produced in and services offered in, the United States, and whenever possible, procure goods, products, materials and services from sources that will help American businesses compete in strategic industries and help America’s workers thrive.

R. Lobbying Prohibition

18 U.S.C. §1913, Lobbying with Appropriated Moneys, as amended by Public Law 107-273, Nov. 2, 2002. Violations of this section shall constitute violations of section 1352 (a) of title 31. In addition,

the related restrictions on the use of appropriated funds found in Div. F, § 402 of the Omnibus Appropriations Act of 2008 (P.L. 110-161) also apply.

S. Assignment

No part of this agreement shall be assigned to any other party without prior written approval of DNR.

T. Rights in Data

The Applicant must grant DNR and the United States of America a royalty-free, non-exclusive and irrevocable license to publish, reproduce and use, and dispose of in any manner and for any purpose without limitation, and to authorize or ratify publication, reproduction or use by others, of all copyrightable material first produced or composed under this Agreement.