

LAND & WATER CONSERVATION FUND



APPLICATION MANUAL 2020



TABLE OF CONTENTS

1. Land and Water Conservation Fund	Page 3
2. LWCF Award Focus	Page 4
3. Award Request Amounts	Page 4
4. Project Eligibility	Page 4-5
5. Perpetuity Requirements	Page 5
6. How To Compete for a LWCF Award	Page 5
7. LWCF Review Process	Page 5-6
8. Requirements For Acquisition Projects	Pages 6-9
9. Appendices	Page 10
a. Sample Governing Resolution	
b. Section 6(f)(3) and Deed Wording	
c. Environmental Review and Public Comment Requirements	

LAND AND WATER CONSERVATION FUND (LWCF)

The Department of Conservation and Recreation (DCR) administers a grant-in-aid program for the acquisition and/or development of public outdoor recreation areas and facilities. Grants are for public bodies only. Towns, cities, counties, regional park authorities, and state agencies may apply for 50% matching fund assistance from the Land & Water Conservation Fund. These funds are provided from a federal apportionment from the National Park Service (NPS), a subunit of the United States Department of the Interior (USDOI).

A key feature of the program is that sites assisted with funding from the program must be open, operated and maintained in perpetuity as public outdoor recreation areas and may not be converted to other uses without prior approval by the DCR and NPS acting on behalf of the USDOI.

The program is a matching, reimbursement program, meaning that the grantee must provide a match and demonstrate the financial capability of financing the project in its entirety while requesting periodic reimbursement.

Information herein describes highlights of the program and is designed to assist in application submission. Prospective applicants should note that additional information may be required in order to render a proper decision about individual proposals.

****NOTE: For the 2020 grant cycle, DCR will only be accepting acquisition projects.***

APPLICATION SUBMISSION INFORMATION

LWCF Award Focus (*NOTE: The 2020 grant cycle will focus only on acquisition projects.)

In making award selections priority will be given to projects that qualify for one of more of the following:

1) land acquisition for park development that can occur within three-years of acquisition, 2) acquisitions that will enhance existing LWCF protected parks, 3) acquisitions that will provide access to state waters for recreational purposes (boating, fishing, swimming, etc.) and/or recreational trails, 4) acquisitions that help to accomplish the Commonwealth's land conservation goals through Conserve Virginia (<http://vanhde.org/content/map>) and the Virginia Recreation Access Model (<https://www.dcr.virginia.gov/natural-heritage/vaconvisrec>).

Award Request Amounts

The minimum award request amount is \$250,000 (\$500,000 minimum total project cost). For the 2020 grant cycle, there will be no maximum award request amount.

PROJECT ELIGIBILITY

Eligible Applicants

All cities, towns, counties, eligible state agencies, and park authorities responsible for providing public recreation services under the *Code of Virginia* are eligible for funding.

Eligible Projects

LWCF assistance is available to political jurisdictions for:

- Public outdoor recreation land acquisitions with development of recreational facilities occurring within 3 years of acquiring the property.
- Public outdoor recreation development projects.
- Combination projects-those that involve both acquisition and development.

Eligible Recreation Examples

- Swimming/ fishing facilities
- Boating Facilities
- Picnic Areas
- Trails
- Soccer fields
- Land purchase for public outdoor recreation

Ineligible Cost Examples

- Restoration of Historic Structures
- Amusement facilities, convention facilities and commemorative exhibits
- Support facilities for public *indoor* activities

- Recreation centers/gymnasiums
- Incidental costs relating to acquisition
- Condemnation of any kind of interest in property
- Indirect Costs/administrative fees

Perpetuity Requirements

All sites receiving LWCF assistance are required to be opened, operated and maintained in *perpetuity* for public outdoor recreation, and may not be converted, either partially or in full, for uses other than public, outdoor, recreation as outlined in Section 6(f)(3) of the Land & Water Conservation Fund Act of 1965.

All recipients of LWCF funding are required to submit *signed and dated* copies of the Section 6(f)(3) map.

All recipients of LWCF funding will be required to ***record in the deed of the property*** that the area is protected through Section 6 (f) of the Land and Water Conservation Fund Act. Please see appendices for deed wording. All applicants should reference the Land and Water Conservation Fund NPS manual requirements posted on line at <https://www.dcr.virginia.gov/recreational-planning/document/lwcf-requirements.pdf>

HOW TO COMPETE FOR A LWCF AWARD

1. Read the *2020 Land & Water Conservation Fund Manual* which has a detailed program description covering the focus of the grant cycle eligibility, match requirements, program rules and regulations.
2. Carefully review the LWCF program requirements, application and scoring criteria, application submission requirements and Frequently Asked Questions posted on the DCR website (http://www.dcr.virginia.gov/recreational_planning/lwcf.shtml.) ***before*** completing the application.
3. Complete the application. The application is a fillable Adobe Form document. Answer all questions in the spaces provided. Do not exceed the required space allotment or attach pages unless specifically directed to do so.

LWCF REVIEW PROCESS

- Applications are reviewed for consistency with Land and Water Conservation Fund State Assistance Program and the Statewide Comprehensive Outdoor Recreation Plan (SCORP) known in Virginia as the *Virginia Outdoors Plan* (<http://www.dcr.virginia.gov/recreational-planning/vop>).
- The LWCF grant administrator reviews all applications and eliminates those applications that are ineligible, incomplete or do not follow the current request for proposals (RFP) instructions.
- Proposals are reviewed in accordance with the intent of the Land & Water Conservation Fund program, the LWCF grant focus, state and federal grant requirements, recreational purpose and need, and the scoring criteria.

- Funding preference will be given to projects that demonstrate the planning, engineering and funding have advanced to where the project can acquire the property.
- Site inspections of the highest ranking projects will be made to ascertain conditions and suitability for funding recommendation. A site inspection does not guarantee selection of a proposal for funding.
- Projects recommended for funding will be given 90 days to submit required environmental documentation, appraisal information, and signed metes and bounds maps depicting the Section 6(f)(3) area to DCR in order to receive formal approval from NPS and DCR. Failure to meet this deadline will remove the project from consideration for funding for this grant cycle. LWCF funding that had been planned for use with projects that did not meet the established deadline will instead be used to assist active LWCF projects needing additional financial assistance or on pending projects that are overmatched.

REQUIREMENTS FOR ACQUISITION PROJECTS

No transfer of property should occur until the applicant has a signed LWCF grant agreement with the Department of Conservation & Recreation and all NEPA requirements are completed.

Eligible Projects

Acquisition of lands for public outdoor recreation including additions to existing parks. Areas acquired may serve a wide variety of outdoor recreation.

Natural areas and preserves, wildlife management areas, state forest lands and other similar areas that can be dedicated to public outdoor recreation are eligible for assistance.

Means of Acquisition

Acquisition of lands may be accomplished through purchase, transfer or by gift. *Lands may not be obtained through condemnation.*

Reservation and Rights

Reservations and rights held by others on the subject property may be permissible only if it is determined by DCR in consultation with NPS that the outdoor recreation purposes and environment could not be significantly affected. The applicant shall provide a description of all outstanding rights and interests, if any, held by others and identify them on the project boundary map.

Acquisition for Delayed Development

LWCF assistance may be available to acquire property for which the development of public outdoor recreation facilities is planned at a future date. In the interim, the property must be open for use by the public for those recreation purposes which can be achieved with minimum financial public investment.

Non recreation uses occurring on the property may continue for a specified period of time if approved by DCR/NPS during the application process.

If development will be delayed for up to three years from the date of the acquisition, the sponsor shall include the following information about the project in the application:

- Why immediate acquisition of the property is necessary?
- What facilities will be developed and when such development will occur?
- What type of interim recreational use will be allowed before development occurs?

Ineligible Acquisitions

- Acquisitions of historic sites and structures will not receive assistance. Exceptions may be made only when it is clearly demonstrated that the acquisition is primarily for outdoor recreational purposes and that the historic aspects are secondary to the primary recreation purposes. This exclusion need not prevent the consideration of projects involving the acquisition of property contiguous to or near historic sites and structures which meet priority outdoor recreation needs. Compliance with the National Historic Preservation Act of 1966 is required for all acquisitions.
- Acquisition of museums and sites to be used for museums or primarily for archeological excavations will not receive LWCF assistance.
- Acquisitions of land to help meet a public school minimum size requirement will not receive LWCF assistance.
- Acquisitions of areas and facilities designed for semi-professional and professional arts and athletics will not receive LWCF assistance.
- Acquisition of areas that cannot be dedicated by deed for perpetual use as public outdoor recreation will not receive LWCF assistance.
- Acquisition of areas to be used mainly for the construction of indoor facilities will not receive LWCF assistance.
- Areas where existing indoor recreation facilities, if left in place, will not leave sufficient land at the site for the development of outdoor recreation facilities to justify the cost of the acquisition are ineligible.
- Acquisition of sites containing lodges, hotels, motels, restaurants and similar facilities that are to be operated by the applicant or a concessionaire to provide food and sleeping quarters will not receive LWCF assistance. The location of these type features if planned for the site or already existing at the site must be excluded from the 6(f)(3) areas. If it is not feasible to exclude these areas from the 6(f)(3) area, then the applicant must justify how the existence of these facilities enhances the outdoor recreation experience for users. DCR and NPS will accept or deny the justification.
- Acquisition of agricultural land primarily for preservation in agricultural purposes will not receive assistance.

- Acquisition of federal surplus property will not receive assistance unless legislatively authorized by Congress in a specific situation.

Required Acquisition Documentation

After an application has been selected by DCR for recommendation for funding but **prior to** submission to the National Park Service (NPS) for final approval, the following documentation is required on all acquisition projects:

- Appraisal to *Uniform Appraisal Standards for Federal Land Acquisition (UASFLA)*. An original and one copy must be submitted to DCR. UASFLS standards are commonly referred to as “yellow book” standards.
 - A copy of the written offer to purchase the property including a statement of just compensation.
 - Relocation plan, advisory services program and appeals procedure when displacement occurs.
 - Documentation showing that the owner or his designated representative has been given the opportunity to accompany the appraiser during the inspection of the property.
 - Phase I Environmental Site Assessment
 - Certification to UASFLA standards and concurrence with the valuation of property from an independent appraisal reviewer. DCR helps coordinates the certification review with an approved independent appraiser.
 - Certification that compliance with the *Uniform Relocation Assistance and Real Property Acquisition Policies Act* has been adhered to or is underway.
 - Two metes and bounds maps showing the Section 6 (f) boundary. The boundary should be clearly indicated. See details regarding the 6(f)(3) map in this manual.
- All cost associated with the appraisal and compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act are the responsibility of the applicant and are not eligible for reimbursement. Likewise, incidental costs relating to acquisition are ineligible or reimbursement.
- If a current appraisal exists for the property, please submit it with the LWCF grant application. A current UASFLA appraisal is one that is no more than 6 months old.

Appraisals

The LWCF program requires that appraisals be in accordance with the *Uniform Appraisal Standards for Federal Land Acquisition (UASFLA)*. The UASFLA standards are online at.

Be aware that a professional appraisal license is based on the Uniform Standards of Professional Appraisal Practice (USPAP). USPAP requirements differ from those used for federal and federally assisted land acquisitions. Therefore, an applicant must ensure that the selected appraiser follows both UASFLA and USPAP standards. All appraisals to DCR must include the required certification statements by the appraiser as provided for in the UASFLA and USPAP. Copies of the USPAP are unavailable online; however, they may be purchased from the Appraisal Foundation, 1029 Vermont Avenue, NW, Suite 900, Washington, and D. C.

Acquisition at less than Just Compensation

Nothing in the LWCF regulations is to be construed to prevent or deter a property owner from making a full or partial donation of property.

In those circumstances involving a partial donation, documentation must be provided that gives evidence that the owner has been provided with a statement of just compensation. Additionally, a written statement by the owner that he is making a partial donation is also required. An offer of just compensation is not necessary when acquisition is by full donation—the legal act of donation itself precludes the necessity for this. Compliance with the *Uniform Relocation Assistance and Real Property Acquisition Policies Act* is still required.

To determine the amount eligible for matching, an appraisal and independent review certification as described above are necessary. The cost of the appraisal and independent certification review for donated properties are the sole responsibility of the applicant.

Donations required by law or regulations are ineligible to be used for the required matching share.

Appendices

Sample Governing Resolution

The General Provisions of the Land and Water Conservation Fund require evidence that the grantee possesses (1) the legal authority to apply for the grant, and (2) the financial capability to construct the proposed facilities. As such, the applicant as part of the grant application to DCR must provide evidence that a resolution, motion or similar action has been duly adopted or passed in the locality authorizing the filing of the LWCF application.

Below is a sample resolution for use in preparing your LWCF grant application package.

- If the resolution cannot be signed before the LWCF deadline an indication of when the signed resolution can be submitted must be included in the application. A draft of the resolution to be approved must also be included.
- For state agency applicants, a letter from the agency director, commissioner, chief financial officer, etc. certifying the availability of the funding for the project is required. The certification must also express an understanding of the terms, conditions, and compliance requirements of the Land and Water Conservation Fund. If individual state agency policies require an agency board or commission approval, the below resolution may be used.

Land & Water Conservation Fund Authorizing Resolution

A resolution authorizing application(s) for federal funding assistance from the Land and Water Conservation Fund (LWCF) to the Virginia Department of Conservation & Recreation (DCR) as provided in the LWCF Act of 1965, as amended.

WHEREAS, under the provisions of LWCF, federal funding assistance is requested to aid in financing the cost of land acquisition and/or facility development; and

WHEREAS, _____ considers it in the best public interest to complete the land acquisition and/or development project described in the application;

NOW, THEREFORE, BE IT RESOLVED that:

1. The _____ [Mayor, Manager, County Administrator, etc.] be authorized to make formal application to DCR for funding assistance;

2. Any fund assistance received be used for implementation and completion of (Elements to be funded) _____ within the specified time frame;

*3. _____ hereby certifies that project funding is **currently available and is committed for this project***

4. We are aware that the grant, if approved by the National Park Service, will be paid on a reimbursement basis. This means we may only request payment after eligible and allowable costs have already been paid to our vendors and evidence of such has been provided to DCR in the format required.

5. We acknowledge that any property acquired and/or developed with financial aid from the Land & Water Conservation Fund must be placed in use and be retained in perpetuity as a public outdoor recreation area in accordance with the provisions and requirements of the Land & Water Conservation Fund Act of 1965, as amended;

6. We acknowledge that any non-recreational uses may not be made of the property without undergoing a conversion of use process and obtaining approval from the Department of Conservation and Recreation and the U.S. Department of Interior/National Park Service;

8. We acknowledge that we are responsible for compliance with the National Environmental Policy Act, Endangered Species Act, Historic Preservation Act, Executive Orders 11988 and 11990 (Floodplain Management and Wetlands Protection) and all other applicable state and federal laws;

7. We acknowledge that appropriate opportunity for public comment _____ [has been or will be] provided on this application and evidence of such is a required component for approval.

(DCR-PRR-003) (01/16)

(DCR199-110) (01/16)

8. *This resolution becomes part of a formal application to the Virginia Department of Conservation & Recreation.*

This resolution was adopted by _____ during the meeting held:

Location Date

Signed and approved by the following authorized representative:

Signed: _____

Title: _____

Date: _____

Section 6(f)(3) Map and Deed Wording

Section 6(f)(3) map and Restrictive Deed Wording

Section 6 (f)(3)

Section 6 (f) (3) of the Land & Water Conservation states that: “No property acquired or developed with assistance under this section shall without approval of the Secretary [of the Interior] be converted to other than public outdoor recreation uses”. The LWCF program realizes that in certain instances there is no alternative to converting a portion of a LWCF property. In those cases where there is no feasible alternative, the grantee must begin a conversion of use process with DCR. In short, the conversion of use process requires that a suitable piece of replacement property be found before a conversion occurs at a LWCF site. “Suitable” means equivalent in fair market value and can serve as a viable public outdoor recreation area without reliance upon adjoining or additional areas.

Restrictive Deed Wording

In order for the section 6 (f) (3) regulations to be enforced, the following language is to be incorporated into the deed and recorded in the city, town or county court house of the project area:

The property identified below has been acquired or developed with federal assistance provided by the National Park Service of the Department of the Interior in accordance with the Land and Water Conservation Fund Act of 1965, as amended, 16 U.S.C. 4601-5 et seq. (170 ed.). Pursuant to a requirement of that law, this property may not be converted to other than public outdoor recreation uses (whether by transfer, sale, or in any other manner) without the express written approval of the Virginia Department of Conservation & Recreation and the Secretary of the Department of the Interior, or his designee. By law, the Secretary shall approve such conversion only if it is in accord with the then existing Statewide Comprehensive Outdoor Recreation Plan (SCORP) and only upon such condition as the substitution of other recreation properties that are of at least equal fair market value and of reasonably equivalent usefulness and location.

Section 6 (f)(3) Map

The purpose of a Section 6(f)(3) map is to legally define the area being developed or acquired with federal LWCF grant money. This area will be given the protection of Section 6(f)(3) of the LWCF Act, which states that property acquired or developed with LWCF money shall not be converted to uses other than public outdoor recreation.

A Section 6(f)(3) map also ensures that the area defined by the boundary line is a viable recreation unit. Normally, this will be the total area of the facility receiving assistance. In no case will it be less than the area to be developed or acquired under a given LWCF application. All projects must have a Section 6(f)(3) map.

According to LWCF rules and regulations, the project area within the Section 6(f)(3) boundary will become encumbered as an outdoor recreational site in perpetuity. This means that it must be open and managed for public outdoor recreation forever.

Each project application must include a 6(f)(3) metes and bounds map unless the project is for an acquisition project. In the case of an acquisition proposal a graphic depicting the proposed acquisition and the anticipated 6(f)(3) boundary is needed.

At a minimum, the 6 (f)(3) map should include:

- Title of Map.
- Date Map was prepared.
- Scale in feet.
- A north compass point.
- The Section 6 (f)(3) metes and bounds line should be distinct from all other lines on the map.
- The words “Section 6 (f)(3) boundary” should be written on the map with an arrow pointing to the line.
- Boundary lines should be shown by dotted or bold lines and distinct from all other lines on the map.
- Match lines should be distinguishable and easily matched among parcels.
- Whenever possible, maps should include some permanent locator, natural landmarks, public roadways etc. to aid in determining boundaries in the field.
- The number of acres being placed under Section 6 (f)(3) protection must be noted.
- Applicants should consider any existing or potential non-recreational uses of the park property that should be excluded (“carved out” and/or “setback”) from the 6(f)(3) protection. These areas should be clearly marked on the map and identified as being excluded from the 6(f)(3) area.
- Applicants must consult with the Virginia Department of Transportation to determine if any planned road construction or improvement projects might impact the proposed 6(f)(3) boundary. If any impacts are identified, a discussion is needed with DCR to determine possible adjustments to the 6(f)(3) area to avoid creating future conversion of use issues.
- Any easements (utility, conservation, wetland, etc.) must be clearly shown on the map.
- Maps should be as high a quality as possible.
- Whenever possible, the finished map should be submitted on ledger size paper (11 x 17). If using this size paper compromises legibility please use a larger size.
- Signed and dated copies of the map are required. Signature should be of local representative authorized to submit the application request.

Environmental Review And Public Comment Requirements

ENVIRONMENTAL REVIEW AND PUBLIC COMMENT REQUIREMENTS

As a federally funded program all Land and Water Conservation Fund grants are considered federal actions. Therefore, applicants must be able to demonstrate compliance with the National Environmental Policy Act; Section 106 of the Historic Preservation Act; Section 7 of the Endangered Species Act; and Executive Orders 11988 and 11990 (Floodplain Management and Wetland Protection,) and where applicable, consistency with the Coastal Zone Management Act.

The purpose of the environmental review is to provide information about the Land and Water Conservation Fund (LWCF) proposal and the anticipated impacts. The environmental documentation becomes part of the federal record for the project. Identifying potential impacts helps guide the NPS on which National Environmental Policy Act pathway should be pursued: 1) a recommendation for a Categorical Exclusion (CE), 2) development of an Environmental Assessment (EA), or 3) an Environmental Impact Statement (EIS).

The federal legislation that coordinates the consideration of the potential for impacts to the human environment as a result of a federal action is the National Environmental Policy Act (NEPA). The National Environmental Policy Act (NEPA) of 1969, as amended, is landmark environmental protection legislation which established creating a balance between the use and preservation of natural and cultural resources as a goal. LWCF proposals are considered federal actions because the funding for the program is federal. The NEPA process coordinates compliance with applicable related but separate federal, state, and local environmental requirements such as the Endangered Species Act, Historic Preservation Act and Coastal Zone Management Act.

NEPA requires: 1) an analysis of the impacts of and alternatives to the proposed federal actions, 2) use of the analysis in deciding whether to proceed with the proposed actions; and, 3) an opportunity for the public to comment on the proposed actions and its anticipated impacts.

To demonstrate compliance with the public comment requirement of NEPA, public input to the proposed project must be solicited through a legal advertisement in a daily newspaper with the widest circulation in the immediate project area. This advertisement should run for a minimum of one day with at least 30 days allowed for the public to comment. The notice must include a brief description of the proposed project with the name, address, and contact information of the project sponsor and the location of where more detailed information about the project including its potential impacts and planned or required mitigation may be found for review. Comments should be provided in writing. Evidence of the public comment must be submitted to DCR before any grant could be awarded.

To satisfy evidence of a public comment period the following information should be submitted:

- a) A photocopy of the legal advertisement showing the date on which it ran in the newspaper.
- b) Describe the total public involvement for this project beyond the legal advertisement.
- c) Describe the nature of the public comments received during the official public comment period. Tally numbers of comments in support of the project and the numbers against.
- d) Summarize the most important comments received and your responses to these comments. For example, if a reviewer made suggestions on how the project could be made better, how did you respond to that suggestion? Submit this summary with the LWCF application.
- e) Describe any changes to the project design or scope of work based on public input.
- f) Comments received and made must be available to DCR for review upon request

For LWCF proposals, the NEPA process coordinates compliance with **separate** but related federal, state, and local environmental requirements as applicable.

At a minimum, compliance by the applicant with the following federal laws and executive orders shall be coordinated during the NEPA process and should be integrated into the impact analysis required.

National Historic Preservation Act, (NHPA) Section 106, as amended.

Section 106 of NHPA requires analysis of the effects of federal actions on historic properties. The State Historic Preservation Office (SHPO), Tribal Historic Preservation Officers (THPO), and as necessary, the Advisory Council on Historic Preservation must be given a reasonable opportunity to review and comment on these actions. Section 106 review and NEPA are two separate, distinct processes. They can and should occur simultaneously, but one is not a substitute for the other. The information and mitigation gathered as part of the Section 106 review must be included in the NEPA document, and the Section 106 process must be completed by the project sponsor before NPS can sign a categorical exclusion, or issue a finding of no significant impact (FONSI) or a record of decision (ROD) so that the proposal may be approved for a LWCF award.

In Virginia, the Department of Historic Resources (DHR) is the resource agency responsible for issuing determinations regarding compliance with NHPA, Section 106. Project sponsors must **READ** and **FOLLOW** the instructions posted on the DHR website for obtaining a NHPA Section 106 project review. The DHR website with instructions is located at: <http://www.dhr.virginia.gov/review/orcFedPrjRev.html>. The ePix online project review portal of DHR is located at <https://solutions.virginia.gov/ePIX/>. Registration with ePix is required to use the system. Registration with the system is free. Please follow the instructions and answer all required fields. **For the purposes of this review, the federal entity is the National Park Service, the program is the Land and Water Conservation Fund and the Code of Federal Domestic Assistance number is 15.916.** The review process is a two part process. An archival review followed by a federal project review. The archival review is a required component of the project review process for Section 106 reviews. **Applicants must provide copy of the comment letter received from the DHR that requires a Section 106 determination before any grant can be forwarded to the NPS by DCR for approval. If a Section 106 determination letter has been issued by DHR for your project, please include it with your LWCF proposal.**

Endangered Species Act, (ESA) Section 7 and Code of Virginia 3.2-1000 Plant and Insect Species Act and 29.1-563 Endangered Species Act

Section 7 of the Endangered Species Act (ESA) requires consultation with the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service on any action that may affect endangered or threatened species or candidate species, or that may result in adverse modification of critical habitat. For LWCF purposes the applicant must carry out this consultation and provide evidence that it has occurred.

The U.S. Fish and Wildlife Service – Virginia Field Office has created an online review. The website is <https://www.fws.gov/northeast/virginiafield/endangered/projectreviews.html>. Applicants should **READ** and **FOLLOW** the instructions for obtaining a review. Note that Step 2 requires an “official species list” to be generated by the USFWS and Step 3 requires coordination with the Virginia Division of Natural Heritage and the Virginia Department of Game and Inland Fisheries (see below). Applicants must submit to DCR a copy of the completed USFWS online review process: IPAC area, Official Species List, Species Conclusion Table, supporting documentation for each step, the USFWS ESA, Section 7, determination letter and the USFWS return receipt that verifies the project package has been successfully submitted to the Virginia Field Office. If applicants have completed this process within the past 6 months, please include the required information with your LWCF proposal.

Virginia Division of Natural Heritage

Instructions for obtaining project review comments from the Virginia Division of Natural Heritage are online at http://www.dcr.virginia.gov/natural_heritage/infoservices.shtml#techserv under “Environmental Review Services” located toward the bottom of the webpage. Project sponsors may request the review either online or through a mail in form. Please READ and FOLLOW the instructions for obtaining a review. Applicants must provide a copy of the comment letter received from the Virginia Division of Natural Heritage to DCR before any grant could be approved for the project. The USFWS requires that any information regarding federally listed species received from the Division of Natural Heritage must be documented on the Species Conclusion Table for the USFWS project review.

Virginia Department of Wildlife Resources

Instructions for obtaining project review comments from the Virginia Department of Wildlife Resources are online at <https://dwr.virginia.gov/environmental-programs/environmental-services-section/> under “Project and Permit Review Process”. Please note that there are several additional types of information DWR may require in addition to the project description, location coordinates and topographical map showing the project location. Therefore it is imperative that applicants follow the instructions precisely and submit the projects to the Department of Wildlife Resources electronically at ProjectReview@dwr.virginia.gov. Applicants must provide copy of the comment letter received from the Virginia Department of Wildlife Resources before any grant can be forwarded to the NPS by DCR for approval. The USFWS requires that any information regarding federally listed species received from the Department of Wildlife Resources must be documented on the Species Conclusion Table for the USFWS project review.

Floodplain Management and Wetland Protection, Executive Orders 11988 and 11990

Executive Orders 11988 and 11990 direct the avoidance of long and short term adverse impacts associated with modifying or occupying floodplains and wetlands. These orders also require the avoidance of direct or indirect support of floodplain or wetland development whenever there is a practical alternative. For LWCF purposes, applicants must comply with this executive order. Evidence documenting the applicant’s coordination efforts with responsible state and federal authorities for determining floodplain management and wetland impacts must be submitted to DCR. For proposals involving floodplain areas, coordination with the local entity responsible for floodplain management is needed to determine potential impacts. For proposals involving wetlands or potential wetlands, coordination with the Virginia Department of Environmental Quality, U.S. Army Corps of Engineers and Virginia Marine Resources should be initiated. The Virginia Department of Environmental Quality has general guidance information on wetlands posted at

<http://www.deq.virginia.gov/Programs/Water/WetlandsStreams/Permits.aspx>.

Coastal Zone Management Act Federal Consistency Determination

Pursuant to the Coastal Zone Management Act (CZMA), federal actions with potential effects on any land or water use or natural resources within Virginia's coastal zone must be consistent with the enforceable policies of the Virginia Coastal Resources Management Program. The federal consistency regulations implement the CZMA requirement that federal actions be consistent with the enforceable policies of a coastal state’s federally approved coastal management program, before they can occur. Effects include both direct and indirect which result from the activity. The Virginia Department of Environmental Quality (DEQ) is responsible for compliance with CZMA and issuing consistency determinations. DEQ has created an online Federal Consistency Information Package. The information is available as a webpage on the DEQ website or as a PDF

www.deq.state.va.us/Programs/EnvironmentalImpactReview/FederalConsistencyReviews.aspx.

Item 3, under “Review Procedure” addresses federally assisted projects. Applicants with **proposals occurring within the Coastal Zone Management Area must request a consistency determination from the DEQ.** Please READ the Federal Consistency Information Package and follow the instructions. Please provide a project description which indicates **the request for the federal consistency determination is due to federal funding assistance from the Land and Water Conservation Fund of the National Park Service and administered in Virginia by the Department of Conservation and Recreation.** Applicants with projects occurring in the Coastal Zone Management Area must submit the response letter from the DEQ in order to be approved for funding.
If your project is not located within the Coastal Zone Management Area a consistency determination is not needed for your project.

Environmental Justice (EJ) in Minority and Low-Income Populations, Executive Order 12898. Executive Order 12898 directs federal agencies to assess whether their actions have is proportionately high and adverse human health or environmental effects on minority and low-income populations. For LWCF purposes, applicants must specifically analyze and evaluate the impact of the LWCF proposal on minority and low-income populations and communities, as well as the equity of the distribution of the benefits and risks of the decision in the NEPA document. If EJ does not apply to your proposal this should be noted and a statement why does not apply needs to be described.

Environmental Resources and Mandatory Criteria Tables

There are two tables in the LWCF grant application that are required to be submitted. The Environmental Resources table lists several environmental resource topics. Applicants are requested to choose an impact estimate level (none, negligible, minor, exceeds minor, more data needed) that describes the degree of **potential negative impact** for each listed resource that may occur directly, indirectly and/or cumulatively as a result of the proposal. For each resource and anticipated impact applicants are required to provide a brief explanation of how the resource might be affected, how the impact level was determined, and why the chosen impact level is appropriate. If additional space is needed to provide these explanations, please provide an attachment(s) clearly identify the resource, the anticipated impact and the explanation. Reference to topical experts and any resources used that assisted in determining the anticipated impact levels must be provided. If the resource does not apply or no impact is anticipated, an explanation regarding how it does not apply and why no impact is needed.

The Mandatory Criteria table contains a list of mandatory criteria that preclude the use of categorical exclusions for the purpose of the National Environmental Policy Act. Applicants are requested to answer and provide an explanation for each answer. If the answer “yes” or “maybe” applies to any of the mandatory criteria, more detailed information on the project would be needed in order for it to continue to be considered for funding. In this situation, if the application scores high enough for funding, DCR will contact the applicant to discuss details.

The information provided in the two tables is required to be submitted to the NPS to guide their selection of one of the following NEPA “pathways”: 1) a Categorical Exclusion recommendation 2) the necessity of further environmental analysis through an Environmental Assessment (EA) or 3) Environmental Impact Statement (EIS).

For additional questions, contact :
Kristal McKelvey Kristal.McKelvey@dcv.virginia.gov
Land & Water Conservation Fund Program
Department of Conservation and Recreation
600 East Main Street
Richmond, Virginia 23219-2010
(804) 786-4379

REFERENCE

The majority of this document has been excerpted from the National Park Service, Land & Water Conservation Fund State Assistance Program, Federal Financial Assistance Manual, Volume 69, Effective Date October 1, 2008.