



Modernization Committee

Issue Statement and Proposed Resolution

Allocation of Administrative Funds per Annual Apportionment

Issue: The Land and Water Conservation Program mandates the perpetual stewardship of fund assisted sites for public outdoor recreation, an ongoing compliance obligation on the part of every State. The LWCF has historically made no accommodations for this ongoing compliance obligation however. While the program does enable the extraction of administrative funds in some way (establishing an administrative cost allowance per grant under certain conditions and limitations), this seems designed to assist with the administrative burden associated with the management of that particular grant and project. The perpetual stewardship obligations remain as a stereotypical unfunded mandate.

In recent years NASORLO members have advocated for a simple duplication of the protocol established within Federal Highway's Recreational Trails Program which establishes a maximum allocation of 7% of annual apportionment.

While this target seems easily justifiable given the sister program protocol, is it what States need for LWCF? With the results of the recent staffing survey in hand, we can establish that every state has at least some level of staffing dedicated to the LWCF program. Many states however have fewer than 1 FTE dedicated to this program.

Due to the dearth of staffing assigned to LWCF, many states enable self-inspections of project sites to maintain the required five-year periodicity inspection schedule. While this strategy assures that inspections have been completed, this does not assure that the project sites are compliant since clearly a project sponsor has little incentive to be too critical about their stewardship of the site. Other states have engaged in virtual inspections via Google Earth imagery. This can be useful in assessing boundary compliance issues, but is not effective in assessing on the ground conditions of the recreation amenities. States have also attempted to satisfy the inspection requirements by assigning interns or similar seasonal staff to the task. While this may increase the level of scrutiny given that the inspector has allegiances to the program instead of to the project sponsor, too frequently these individuals do not have the skills, or perhaps the inclination to delve deeply into assuring that every aspect of the fund assisted site is compliant. Further, these individuals generally do not have the wherewithal to perform the necessary follow up with project sponsors of sites where compliance issues have been detected or are suspected.

With a fifty-five-year legacy of outdoor recreation investments, the inventory of assisted sites is now substantial, and aging and growing with each passing year. These sites exist in the reality of a changing world where many of the individuals who supported the local projects are no longer around to remind community members of the perpetual stewardship obligations. Memories fade, signs fall down, and LWCF assisted outdoor recreation project sites are sold, paved over, repurposed for non-recreation uses and otherwise diminished. In order to protect the investments of LWCF, states need the resources for robust compliance practices. It should be noted that to remain current on inspections most states have to perform at least 3-5 inspections a week, every week, every year, year after year. Invariably, diligent inspections reveal unintended conversions. Resolving one

conversion can take upwards of two years of consistent effort working with the community every step of the way.

In addition to ongoing inspections and associated compliance work, the following tasks, and obligations are part and parcel of the successful management of the LWCF state side program:

- Manage the application, evaluation/scoring and award process for all State and sub recipient applicants according to established OPSP
- Revise and update OPSP every 5 years
- Monitor active projects
 - Perform pre-award, Progress, Final and Post Completion Inspections and associated reporting.
 - Manage reimbursements as requested
 - Process project modifications
- Facilitate the SCORP update planning process every 5 years
- Conversions of Use
 - Project manager for all conversions
- Project stewardship
 - Post Completion Inspection (every project every 5 years in perpetuity)
 - Reporting- States shall report on all onsite inspection to NPS
 - Leasing and Concession Review
 - Handling of Utility Easement and Right Of Ways
 - Managing requests/proposals to:
 - construct public facilities
 - temporary nonconforming uses within a 6(f)(3) area
 - Shelter Facilities
 - Deem a facility obsolete
 - Significantly change the outdoor recreation use of a facility
 - Handle all incoming 6(f)(3) inquiries on DOT and Community Projects.
 - Other project and program reporting as required

It is our assertion that at a minimum, every state should have a full-time stewardship compliance officer. Additionally, each state should have a minimum of one full time program manager to successfully manage the application process, current project oversight, compliance issues / conversions, reimbursements and reporting.

Proposal: Understanding that LWCF can only reimburse up to 50% of the allowable costs, and understanding that there are additional administrative responsibilities and obligations that burden the state in the management of the state side LWCF program, and understanding that in a true partnership, both parties share in the need to dedicate adequate resources for the successful management of the program, NASORLO recommends that 10% of annual apportionment be allocated to eligible administrative costs. NASORLO further suggests that a working group be established between NPS and NASORLO to develop a mechanism by which these administrative funds would be made available to states.