



# United States Department of the Interior

National Park Service  
1849 C Street NW  
Washington, DC 20240

IN REPLY REFER TO:

L2225

November 17, 2022

## MEMORANDUM

To: Land and Water Conservation Fund (LWCF) State Liaison Officers

From: David Szymanski, Associate Director (Acting), Partnerships and Civic Engagement, National Park Service

Subject: LWCF Administrative Grant Program – Opportunities for Feedback

The purpose of this document is to provide context and seek feedback from states and territories (“states”) on procedures for a potential administrative grant program to build capacity within state governments to administer the Land and Water Conservation Fund state and local assistance program (“LWCF stateside program”). The authority for this grant program is currently included in both the House and Senate draft appropriations bills.

NPS will host two webinars to introduce the proposed administrative grant program and answer questions. To register for a webinar, please click the respective link below:

- [Webinar 1: Monday November 28, 2022 @ 4:00 PM ET](#)
- [Webinar 2: Monday December 5, 2022 @ 5:00 PM ET](#)

The final section of this document provides instructions for providing feedback. Providing feedback is completely optional. The preferred method for submitting feedback is to complete the form located on the [LWCF Partner Hub](#).

Thank you in advance for your time and thoughtful consideration of how to implement this new policy. Please bring clarifying questions to the webinars. For additional assistance or information, please contact Lindsey Kurnath ([Lindsey\\_Kurnath@nps.gov](mailto:Lindsey_Kurnath@nps.gov)).

### **Administrative Grant Authority – Need and Legislative Language**

The amount of funding available through the LWCF stateside program has grown by a factor of ten from FY 2015 levels. The John D. Dingell Conservation, Management and Recreation Act of 2019 and the Great American Outdoors Act of 2020 permanently authorized the LWCF Act at the full authorized level of \$900 million year, with a set-aside of at least 40% of the total for this program. Successfully investing these funds in recreation lands and development requires building capacity in states and territories, and in the NPS assistance program.

To build this capacity and support the needs of the states, the Department of the Interior requested the authority to make administrative grants in its FY23 Budget request. The text of our budget justification and proposed legislative language is included below and in the NPS [Budget Justifications and Performance Information FY 2023: National Park Service \(doi.gov\)](#).

### *Justification*

In enacting the LWCF Act, Congress did not explicitly provide authority for administrative grants to States, and "administration" is not listed as one of the eligible purposes of financial assistance. However, States bear many administrative responsibilities in carrying out the program, particularly with regard to post-award oversight. States have struggled to fulfill their administrative obligations without a clear fund source to support this role. In the Joint Explanatory Statement accompanying the FY 2021 Consolidated Appropriations Act, Congress directed the NPS to detail recommendations developed by a working group of interested stakeholders to assist States in addressing their obligations and compliance responsibilities. One recommendation made by this working group was to include language in the budget request to establish the authority to direct funds to the States for program administration on an annual basis.

Language has been proposed as a General Provision and would authorize the NPS to retain up to seven percent of the Formula State Conservation Grants assistance program amount to disperse to States, the District of Columbia, and insular territories, as 50:50 matching grants to support State program administrative costs. In doing so, States would provide a plan to NPS for approval, identifying their need for and intended use of the funds covering costs such as personnel, travel, training, and supplies. Grants would be capped at a maximum amount per State depending upon the size of the State's apportionment. Any funds not requested for administration grants would be returned to the program to be distributed through the apportionment. (LASA-GAOA-40, page 386)

### *Legislative Language*

House Bill Language: "LAND AND WATER CONSERVATION FUND FINANCIAL ASSISTANCE TO STATES SEC. 124. For expenses necessary to carry out section 200305 of title 54, United States Code, the National Park Service may retain up to 7 percent of the State Conservation Grants program to provide to States, the District of Columbia, and insular areas, as matching grants to support state program administrative cost." p. 687.

Senate Bill Language: "STATE CONSERVATION GRANTS SEC. 122. For expenses necessary to carry out section 200305 of title 54, United States Code, the National Park Service may retain up to 7 percent of the State Conservation Grants program to provide to States, the District of Columbia, and insular areas, as matching grants to support state program administrative costs." p. 687

## **Items Addressed in Legislative Language and Budget Justification**

The legislative language and accompanying justification state the following. The justification language can be updated for future fiscal years.

- Funding Available. The language for administrative expenses allows NPS to retain up to 7% of the LWCF formula, GOMESA, and ORLP appropriations for state administrative costs. For FY22, this would have been approximately \$26-28 million. (Statement of Effect)
- The grant matches state investment in LWCF administrative costs on a 1:1 basis. (Legislative Language)
- States would submit a plan for NPS approval. (Justification)
- Grants would be capped at a maximum amount based on a state's apportionment. (Justification)
- Unused funds would be returned to the apportionment (formula) program. (Justification)

The following issues are not addressed in legislation or the accompanying justification, and need to be determined by NPS, in consultation and collaboration with the states:

- How to treat states currently charging indirect costs.
- Format for the application to be submitted for NPS approval.
- How to allocate funds for administration among the states.

## **NPS Intent and Assumptions**

The justification provided to Congress for these funds is based on the expectation that states would use the funds to build additional capacity to administer the LWCF grant program. NPS would like to provide the states as much flexibility as possible in addressing their administrative needs. There is diversity in how states administer their LWCF programs (e.g., a state grant office that also administers one or more other Federal and/or state grant programs is common but not universal). We also acknowledge that determining how to administer LWCF requirements and how to staff state programs is the purview of the states and often requires action from state or territory government. Finally, we assume that the same audit and control mechanisms already in place for Federal grants will apply, making new control mechanisms potentially unnecessary.

It is unclear whether current total investment from the states to administer LWCF overmatches or undermatches the 7%. It is also unclear whether 7% will be sufficient as the state administrative programs grow. We will continue to work with the states to identify needs.

## **Potential Apportionment**

NPS has made no decisions about how administrative funds should be allocated between states. The only requirement is the overall 7% ceiling on the potential total available funding. Several options are described in the table below; the NPS is open to considering others.

## Potential Apportionment Methods

Option	Description	Example	Benefits	Limitations / Disadvantages
Method 1: Use Existing Formula as Basis	States receive a share equivalent to a percentage of their apportionment	40% divided equally among the states, approximately \$200,000 each 30% based on population 30% based on urban population	- Provides a baseline of approximately \$200,000 available to match contributions of each state and territory.	- Not tailored to need and may be insufficient for states and territories receiving lower apportionments. - No incentive for smaller states to invest beyond the minimum.
Method 2: Higher minimum formula	States receive a shared based on a modified percentage of their apportionment	50% divided equally among states, approximately \$250,000 each 30% based on population 30% based on urban population	-Provides a larger minimum match, which may be appropriate if the basic cost of administering LWCF, regardless of program size, exceeds \$400,000.	-States and NPS would need to establish this minimum
Method 3: Equal Share	States receive an equal share	100% divided equally among states, approximately \$450,000 each	- Provides a baseline funding amount to all states.	- Not tailored to need and may be insufficient for states receiving higher apportionments or with more complex programs to administer. - Cap is not dependent on apportionment, as stated in the budget justification.
Method 4: Minimum Equal Share + Administrative Need	States receive a minimum based on apportionment, and remaining funds are distributed based on a formula developed by NPS in consultation with states	40% divided equally among the states, approximately \$200,000 each 60% divided based on criteria including number of current projects, fiscal size of program, and number of past projects	- Sets minimum investment across all states and territories - Allocates more funds to states demonstrating most need, projects requiring administrative attention.	- States and NPS would need to develop these metrics, making FY23 disbursements more complex. - no one formula may accurately describe need for all states.
Method 5: Administrative need	States receive a share based on a formula developed by NPS in consultation with states	100% divided based on criteria including number of current projects, fiscal sized of program, and number of past projects	- Allows NPS to start to determine true need of program	- This will be more complex and require the NPS to develop methods to assess states' needs. - Percentage may be insufficient to fulfill all requests

## **Eligible Costs and Activities**

Administrative grants can be used to pay for, but are not limited to, the following expenses and activities.

### *Costs*

Salaries, fringe benefits, travel, equipment, supplies, and contracts that directly support implementation of the state or territory's LWCF program. (Equipment is defined as tangible nonexpendable personal property having a useful life of more than 1 year and an acquisition cost of \$5,000 or more per unit.)

Associated indirect costs.

### *Activities*

- Soliciting and developing potential LWCF projects, such as announcing RFPs and travel for site visits.
- Evaluating and prioritizing LWCF project applications. Acceptable costs of technical meetings may include food, drinks, and rental of facilities.
- Promoting the LWCF program, including through websites, educational workshops, public outreach, and support of public relations events, such as ground-breaking events or ribbon cutting events for completed project sites. Acceptable costs may include rental of facilities, audio-visual or public address systems, local transportation, and other items incidental to such events such as chairs, portable sanitary facilities (if event is outside), etc.
- Managing, evaluating, and updating the State's LWCF policies and procedures.
- Hosting and/or participating in technical training courses or workshops related to LWCF.
- Hosting and/or participating in regional and national LWCF meetings.
- Monitoring project performance, conversions, and program evaluations.

### *Ineligible Costs*

Unacceptable costs for promotional or celebration events include, but are not limited to food, drinks, entertainment, and souvenirs. However, food, drinks, and rental of facilities may be allowable to support LWCF technical meetings.

## Questions from the States and Territories

We have received the following questions about the grant program and includes answers below.

*Will NPS be required to post a NOFO to receive administrative applications if they are not competitive? We do not know yet.*

*Can existing state costs, such as staffing, training, contracts, supplies, and overhead be used as a match? Yes.*

*When will funds be available? After Congress passes our appropriation bill, funds will be available. For year 1, NPS would like to receive requests from all states before disbursing funds to ensure that every state has the chance to receive funding. NPS would like to announce the grant opportunity as soon as possible, prior to the appropriation, if necessary.*

*What form will the plan to be submitted to NPS for approval take? We have not determined this yet and are looking at best practices from other programs. It is most likely that the LWCF Administrative Grant process will look like the NPS grant process for operating costs for the State Historic Preservation Offices. The process will be overseen by the NPS Associate Director, Partnerships and Civic Engagement to ensure executive leadership.*

*Do state commitments need to be during a certain time period to be considered for a match or for reimbursement? We anticipate that any expenses incurred during Federal fiscal year 2023 (October 1 to September 30) would be eligible.*

*How long do states have to expend funds before they are returned to the formula grant program? We propose three years, consistent with current practice for LWCF grants and the proposed practice for NPS grants to State Historic Preservation Offices for administrative expenses.*

*When can states expect FY24 funding? NPS does not have full program funding until an appropriations bill is passed by Congress and signed by the President. In recent years, this has generally happened during the first two quarters of the fiscal year (e.g., between October 1 and March 31 for a fiscal year beginning October 1).*

## Requesting Feedback from the States and Territories

NPS is seeking feedback from the states on the proposed LWCF administrative grant process by answering the following questions. Providing feedback is completely optional. If choosing to reply, please provide as much detail and context as possible to help NPS understand the issues.

If your state chooses to provide feedback, we request one response per state, coordinated through the SLO or ASLO. The preferred method for submitting feedback is to complete the form located on the [LWCF Partner Hub](#). Alternatively, the SLO may upload a memo that responds to the following questions in their state's folder on the LWCF Partner Hub. Lastly, the SLO may email their state's response to Lindsey Kurnath ([Lindsey\\_Kurnath@nps.gov](mailto:Lindsey_Kurnath@nps.gov)).

Please submit all feedback no later than 5:00 PM ET on Friday December 16, 2022.

1. What are your state's biggest challenges or barriers in taking advantage of the administrative grant program as proposed? How could NPS manage the program in a way that mitigates those challenges?
2. Please rank the proposed allocation methods (Methods 1-5 in the table on Page 4) based on what your state would prefer to see implemented.
3. Please explain your ranking above. What are your state's thoughts on the proposed allocation methods? Which one(s) do you prefer and why?
4. How much does your state annually spend on LWCF administrative support?
5. How much money would you expect your state will apply to match 1:1 in FY23?
6. Assuming the authority continues, how much might your state request to match in five years (FY28)?
7. For states currently reimbursed through a negotiated indirect cost rate agreement (NICRA), how does your state anticipate this administrative grant program will impact those reimbursements? How could NPS manage the program in a way that ensures states continue receiving adequate support for administrative and other overhead costs?
8. What questions or general comments do you have on how NPS will manage the administrative grant program?