

## **IDAPA 26 – DEPARTMENT OF PARKS AND RECREATION**

### **Management Services Division**

#### **26.01.33 – Rules Governing the Administration of the Land and Water Conservation Fund Program**

##### **Who does this rule apply to?**

*These rules apply to the applicants and recipients of the Land and Water Conservation Fund program administered by the Idaho Department of Parks and Recreation.*

##### **What is the purpose of this rule?**

*These rules are promulgated by the Idaho Park and Recreation Board to further define and make specific how the department administers the Land and Water Conservation Fund program.*

##### **What is the legal authority for the agency to promulgate this rule?**

*This rule implements the following statute passed by the Idaho Legislature:*

State Government and State Affairs -

State Parks:

- [Section 67-4223, Idaho Code](#) – Powers of Board

##### **Who do I contact for more information on this rule?**

Idaho Department of Parks and Recreation

8:00 am to 5:00 pm MT

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**26.01.33 – RULES GOVERNING THE ADMINISTRATION OF  
THE LAND AND WATER CONSERVATION FUND PROGRAM**

**000. LEGAL AUTHORITY.**

The Idaho Parks and Recreation Board is authorized under Section 67-4223, Idaho Code, to adopt, amend, or rescind rules as may be necessary for proper administration of the department and its programs. (3-18-22)

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.33, “Rules Governing the Administration of the Land and Water Conservation Fund Program.” (3-18-22)

**02. Scope.** This chapter establishes procedures for the administration of the Land and Water Conservation Fund program, including requirements for project application, eligibility, review, award, and management. (3-18-22)

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**

As used in this chapter: (3-18-22)

**01. 2 CFR 200.** Uniform Administrative Requirements, Cost Principles, and Audit requirements for Federal Awards as set forth in 2 CFR 200 (Code of Federal Regulations). (3-18-22)

**02. Acquisition.** The gaining of rights of public use by purchase or donation of fee or less than fee interests in real property. (3-18-22)

**03. Alternate State Liaison Officer (ALSO).** State official designated by the governor of Idaho to assist the State Liaison Officer in managing the LWCF Program. The State and Federal Grant Manager is the ALSO. (3-18-22)

**04. Board.** The Idaho Parks and Recreation Board, a bipartisan, six (6) member board, appointed by the governor. (3-18-22)

**05. Development.** The act of physically improving an area or constructing facilities necessary to increase its ability to serve outdoor recreation purposes. (3-18-22)

**06. Department.** The Idaho Department of Parks and Recreation. (3-18-22)

**07. LWCF.** The Land and Water Conservation Fund, a federal grant program that provides matching grants to states, and through states to local governments, for the planning, acquisition and development of public outdoor recreation areas and facilities. (3-18-22)

**08. LWCF Advisory Committee.** Representatives from federal, state and local entities and other subject matter experts with expertise in community development or public outdoor recreation needs. (3-18-22)

**09. NPS.** The National Park Service. (3-18-22)

**10. Open Project Selection Process (OPSP).** The decision-making process and criteria by which the Department selects projects for the LWCF funding. The OPSP defines the criteria that propose LWCF projects must meet in order to be eligible for funding and establish priorities to objectively rate competing eligible projects. (3-18-22)

**11. SCORP.** Statewide Comprehensive Outdoor Recreation Plan. (3-18-22)

**12. Sponsor.** A state or local government agency that solicits a grant from the Department for a project or is responsible for administering the grant of an approved application or completed project. (3-18-22)

**13. State Liaison Officer (SLO).** State official designated by the governor of Idaho to manage the LWCF Program with the assistance of the Alternate State Liaison Officer. The director is designated as the SLO. (3-18-22)

**011. -- 039. (RESERVED)**

**040. LWCF ADVISORY COMMITTEE MEMBER SELECTION AND APPOINTMENT.**

- 01. Members.** The advisory committee includes nine (9) members as follows: (3-18-22)
- a.** Three (3) members are representatives of state and federal agencies with a technical relationship to community development or the outdoor recreation needs in the state. (3-18-22)
  - b.** One (1) member represents a community of five thousand (5,000) population or more. (3-18-22)
  - c.** One (1) member represents a community of five thousand (5,000) population or less. (3-18-22)
  - d.** One (1) member represents the interests of ethnic minorities. (3-18-22)
  - e.** One (1) member represents the interests of the elderly. (3-18-22)
  - f.** One (1) member represents the interests of people with disabilities. (3-18-22)
  - g.** One (1) member must be from the board. (3-18-22)
- 02. Quorum.** A quorum is required to conduct committee business. Five (5) people constitute a quorum. (3-18-22)
- 03. Appointment and Term.** Members are appointed by and serve at the discretion of the board for three (3) funding sessions and may be reappointed. (3-18-22)

**041. -- 049. (RESERVED)**

**050. GRANT CYCLE.**

The funding cycle must occur at least once every two (2) years and may occur at any other regular interval within the fiscal year as determined by the state. (3-18-22)

**051. -- 064. (RESERVED)**

**065. ELIGIBLE SPONSORS.**

Governmental agencies that are eligible to receive or apply for the grant funds include incorporated cities, counties, state agencies, recreation districts, and other state or local governmental agencies authorized to provide general public recreation facilities. (3-18-22)

**066. ELIGIBLE PROJECTS.**

LWCF grants are available to acquire or develop land that is to be used for outdoor recreation purposes and is to be held in perpetuity for public outdoor recreation uses. The sponsor must have title to or adequate control and tenure of the area to be developed. Projects clearly designed and located to meet identified needs for general public recreation, as well as to provide school districts with outdoor education, physical education, and recreation facilities may be eligible for funding, provided general public recreation is clearly the primary use. Projects must be consistent with the current LWCF Federal Assistance Manual. (3-18-22)

**067. INELIGIBLE PROJECTS.**

Acquisitions or development that do not contribute directly to general public outdoor recreation facilities or activities are ineligible for LWCF funding. Acquisition of leases are not eligible for LWCF funding. The cost to a sponsor of land purchased from another public agency is not eligible for LWCF funding. (3-18-22)

**068. -- 079. (RESERVED)**

**080. APPLICATION PROCEDURE.**

**01. Procedure.** To be considered for a grant, a sponsor must follow the procedural requirements, file a completed grant application form prior to the stated deadline, propose an eligible project, and submit all other documentation specified in this rule. (3-18-22)

**02. Review for Completeness and Eligibility.** Materials submitted by the sponsor are reviewed by the Department for completeness and for project eligibility. (3-18-22)

**03. LWCF Advisory Committee Rating.** The LWCF Advisory Committee rates projects and assists the Department in making funding priority recommendations to the Idaho Park and Recreation Board. To objectively rate competing eligible projects, the committee considers the application, the presentation by the sponsor, and how the project meets the OPSP criteria and established priorities. (3-18-22)

**04. Board and NPS Approval.** The board reviews and approves a priority list for submission to NPS. Applications are submitted to NPS according to priority after LWCF moneys have been appropriated by Congress and allocated to the state. (3-18-22)

**05. Grant Agreement.** Upon approval of a grant application by NPS, the Department will present the sponsor with a grant agreement that identifies eligible costs and obligates the sponsor to a specified project scope. The sponsor must sign the agreement prior to initiating work on the project. The signed agreement obligates the sponsor to complete all elements of the project as described in the agreement and any applicable approved amendment. The signed agreement must include a proclamation from the sponsor's governing body committing the project and the sponsor to LWCF requirements in perpetuity. (3-18-22)

**081. -- 099. (RESERVED)**

**100. FEES AND INCOME.**

**01. User Fees.** User or other types of fees may be charged in connection with facilities developed with LWCF grants, provided that the fees and charges are commensurate with the value of recreation services or opportunities furnished and are in the prevailing range of public fees and charges for the particular activity involved. Discrimination on the basis of residence, including preferential reservation or membership systems and annual permit systems, is prohibited except to the extent that reasonable differences in admission and other fees may be maintained on the basis of residence. (3-18-22)

**02. Nonrecreational Income.** Nonrecreational income that accrues to an outdoor recreation area other than the intended recreational use, including income from land management practices, must derive from use that is consistent with, and complementary to, the intended outdoor recreational use of the area. Gross nonrecreational income that accrues during the project period established in the project contract must be used to reduce the total cost of the project. Gross nonrecreational income that accrues subsequent to the ending date identified in the project contracts must be used only to offset the expense of operation and maintenance of the facility. (3-18-22)

**101. SPONSOR'S MATCHING SHARE.**

The sponsor must match a portion of the approved project cost as determined by the National Park Service. The sponsor's share can be either local funds, acceptable state funds, force account (labor or equipment), or donation of privately owned lands, goods or services. All matching funds must meet LWCF Program rules as well as the allowable cost rules under 2 CFR 200. (3-18-22)

**102. APPRAISAL REQUIREMENTS.**

A real estate appraisal is required for all land to be acquired. The appraisal must be prepared and paid for by the sponsor. All appraisals must be done according to "Uniform Appraisal Standards for Federal Land Acquisitions." NPS requires that the Department has each appraisal reviewed by a qualified appraiser. Any appraisal report that does not meet the basic content requirement or use correct analysis procedures must be corrected to the satisfaction of the Department. All costs are paid by the sponsor. (3-18-22)

**103. -- 299. (RESERVED)**

**300. FUND ALLOCATION.**

**01. Administration Costs.** Idaho’s cost of administering the SCORP program, the LWCF program and a contingency fund are deducted from the state’s annual apportionment. The remaining funds are divided fifty percent (50%) for local governmental agencies and fifty percent (50%) for state agencies. This standard may be altered in any year at the discretion of the board. (3-18-22)

**02. Allocation by Population.** (3-18-22)

**a.** To assure that the needs of rural areas are met, twenty percent (20%) of the amount dedicated for local governmental agencies is dedicated for use by governmental agencies of five thousand (5,000) population or less. If the cumulative request of the governmental agencies of five thousand (5,000) population or less is more than the twenty percent (20%) of the amount dedicated for local governmental agencies, governmental agencies of five thousand (5,000) population or less may compete for the total remaining allocation. (3-18-22)

**b.** If the total cost for a single project of a governmental agency with a population of five thousand (5,000) or less requires over one-half (1/2) of the twenty percent (20%) dedicated for use by governmental agencies of five thousand (5,000) population or less, that project will compete with the large governmental agency projects. (3-18-22)

**c.** The board may suspend (through formal action at the board meeting at which LWCF grant requests are considered) any provision of this section if the allocation is too small to warrant viable projects. (3-18-22)

**03. Less Than Full Distribution.** The board is not required to distribute all available funds. The Department may recommend, and the board determine, to reject projects with evaluation scores so low as to be noncompetitive. (3-18-22)

**04. Cost Overruns.** Twenty percent (20%) of the total allocation may be held out for needed cost overruns. Any unused funds at the end of the funding cycle are obligated through the normal process. (3-18-22)

**301. -- 514. (RESERVED)**

**515. PROJECT MANAGEMENT AND DISBURSEMENT OF FUNDS.**

**01. Authorization.** Except as otherwise provided herein, the SLO must authorize disbursement of funds allocated to a project through reimbursement basis. The LWCF program is a reimbursement program, which means that the sponsors initially pay all project costs and then seek reimbursement through the Department (3-18-22)

**02. Documentation of Property Purchase.** Prior to submitting for property acquisition cost reimbursement, the sponsor must document that all deed, title insurance and appraisal requirements are satisfied. (3-18-22)

**03. Reimbursement.** The sponsor must request reimbursement on forms provided by the Department and must include all required documentation. The amount of reimbursement must never exceed the cash expended on the project. (3-18-22)

**04. Development Project Contract Requirements.** Development projects require competitive bidding and must comply with all local, state and federal requirements. (3-18-22)

**05. Records.** Project records must be maintained by the state and sponsor for three (3) years after final payment. The material must be maintained beyond the required three (3) year period if audit findings have not been resolved. (3-18-22)

**516. -- 649. (RESERVED)**

**650. CONVERSION TO OTHER USES.**

**01. Conversion.** The term “conversion” is used to identify properties that were acquired or developed

with LWCF assistance that have been converted from a public outdoor recreation to other than public outdoor recreation uses without prior approval of NPS. (3-18-22)

**02. Fees.** The sponsor must pay all costs associated with the LWCF conversion process. (3-18-22)

**651. -- 724. (RESERVED)**

**725. ONGOING SPONSOR OBLIGATIONS.**

**01. Permanent Project Signs.** The sponsor is required to install permanent public acknowledgment of LWCF assistance at project sites on at least one (1) prominent location, such as the project site entrance. The sponsor must use the LWCF symbol established and provided by the Department for such acknowledgment. If the sponsor wants to provide a more detailed sign, the Department must approve the sign prior to construction to ensure proper designation. (3-18-22)

**02. In Perpetuity.** The sponsor must maintain any outdoor recreation use within LWCF boundaries in perpetuity. (3-18-22)

**726. -- 999. (RESERVED)**