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**IDAPA 26
TITLE 01
CHAPTER 33**

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

000. LEGAL AUTHORITY.

The Idaho Park 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. (1-1-94)

001. TITLE AND SCOPE.

01. Title. The title of this chapter shall be 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." (1-1-94)

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. (1-1-94)

002. WRITTEN INTERPRETATIONS.

This agency has written interpretations of these rules, in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules, or documentation of compliance with IDAPA 26.01.01.150, "Rules of Administrative Procedure of the Idaho Park and Recreation Board." In addition, Participation Manuals and Internal Procedures Manuals referred to in this chapter provide additional interpretation of these rules. These documents are available for public inspection and copying in the central office of the agency. (1-1-94)

003. APPEALS.

Any applicant who may be adversely affected by a final decision ruling, or direction, of the SLO may appeal such decision, ruling, or direction as outlined under IDAPA 26.01.01.250, "Rules of Administrative Procedure of the Idaho Park and Recreation Board." (1-1-94)

004. -- 005. (RESERVED).

006. CITATION.

The official citation of this chapter is IDAPA 26.01.33.000 et seq. For example, the citation for this section is IDAPA 26.01.33.006. (1-1-94)

007. -- 009. (RESERVED).

010. DEFINITIONS.

As used in this chapter: (1-1-94)

01. Acquisition. The gaining of rights of public use by purchase or donation of fee or less than fee interests in real property. (1-1-94)

02. Board. The Idaho Park and Recreation Board, a bipartisan, six (6) member board, appointed by the governor. (1-1-94)

03. Development. The act of physically improving an area or constructing facilities necessary to increase its ability to serve outdoor recreation purposes. (1-1-94)

04. Director. The director and chief administrator of IDPR or the designee of the director. Designated by the governor to serve as the State Liaison Officer for the LWCF program. (1-1-94)

05. Evaluation Committee. Representatives from federal, state and local agencies with expertise in community development or public outdoor recreation needs. The committee determines acceptability of projects

based on technical criteria, rates LWCF projects, and assists IDPR staff in making funding priority recommendations to the Idaho Park and Recreation Board. (1-1-94)

- 06. Grants Program.** All funding programs administered by IDPR. (7-1-93)
- 07. IDPR.** The Idaho Department of Parks and Recreation. (1-1-94)
- 08. LWCF.** The Land and Water Conservation Fund, a federal grant program which provides fifty percent (50%) matching grants to states, and through states to local governments, for the planning, acquisition and development of public outdoor recreation areas and facilities. (1-1-94)
- 09. NPS.** The National Park Service. (1-1-94)
- 10. Open Project Selection Process (OPSP).** The overall objective decision making process by which IDPR selects LWCF projects for funding. (7-1-93)
- 11. Participation Manual and Internal Procedures Manuals.** A compilation of state procedures, rules, and instructions that have been assembled in manual form and which have been approved by the board for dissemination to the public and public agencies that may wish to participate in grant programs of IDPR or which outline operation of the Land and Water Conservation Program by IDPR for staff use. (7-1-93)
- 12. Planning.** The development of documents and programs to identify and propose actions for managing recreational resources and the preparation and review of designs and specifications for such resources. (1-1-94)
- 13. Priority Needs Assessment.** Incorporates SCORTP related activities which refined Idaho's priorities for LWCF obligation. These area are reflected in the OPSP criteria (see Section 440 of this chapter). (1-1-94)
- 14. Project.** The undertaking which is or may be funded in whole or in part with funds administered by IDPR. (1-1-94)
- 15. Retroactive Cost.** Costs incurred after receipt of application but prior to the execution of the project contract. (7-1-93)
- 16. SCORP/SCORTP.** Statewide Comprehensive Outdoor Recreation Plan/Statewide Comprehensive Outdoor Recreation and Tourism Plan. (1-1-94)
- 17. Scope Element.** A specific item, for example, one (1) facility or amenity, listed on a project application or project agreement which is a part of the whole. (1-1-94)
- 18. Sponsor.** A state or local government agency which solicits a grant of funds from IDPR for a projector is responsible for administering the grant or funding of an approved application or completed project. (1-1-94)
- 19. State Liaison Officer (SLO).** The director is designated by the governor to serve as the State Liaison Officer to the National Park Service for the LWCF program. The chief of the Recreation Resources Bureau is designated as the Alternate State Liaison Officer. (1-1-94)

011. -- 049. (RESERVED).

050. GENERAL PROVISIONS.

Federal Land and Water Conservation Fund (LWCF) grants are available through IDPR for the acquisition or development of land to be used for outdoor recreation or for the combined acquisition and development of land to be used for outdoor recreation. Any land acquired or developed with these funds shall be held in perpetuity for outdoor recreation or, with approval from IDPR and NPS, be replaced with land of equal or higher fair market value, recreation utility and location. LWCF grants may be used for SCORTP activities. (1-1-94)

051. -- 064. (RESERVED).

065. COMPLIANCE WITH LAWS.

LWCF administration is subject to all applicable state and federal statutes, rules, regulations, ordinances and requirements. (1-1-94)

066. -- 079. (RESERVED).

080. FUND ALLOCATION.

01. Eligible Applicants. Governmental agencies which 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. (1-1-94)

02. Allocation of Funds. Idaho's cost of administering the SCORTP 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 policy may be altered in any year at the discretion of the board. (1-1-94)

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. (1-1-94)

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 shall compete with the large governmental agency projects. (1-1-94)

03. Exceptions. The board may suspend (through formal action at the board meeting at which LWCF grant requests are considered) any provision of Subsection 080.02 of this chapter if the allocation is too small to warrant viable projects. (1-1-94)

04. Project Requests Insufficient. The board is not required to distribute all available funds. IDPR staff may recommend, and the board determine, to reject projects with evaluation scores so low as to be noncompetitive. (1-1-94)

081. -- 094. (RESERVED).

095. CONTINGENCY FUND.

Twenty percent (20%) of the total allocation may be held out for needed cost overruns, special projects, and emergency needs. Any unused funds at the end of the funding cycle shall be obligated through the normal process. (1-1-94)

096. -- 109. (RESERVED).

110. SPONSOR'S MATCHING SHARE.

The sponsor shall be reimbursed up to fifty percent (50%) of the approved project cost. The sponsor's share can be either local funds, acceptable state funds, force account, or donation of privately owned lands, goods or services. Reimbursement varies according to the type of project and total project cost (see Section 515 of this chapter). The use of specific types of sponsor's share match may be adjusted in any year at the discretion of the board (see Section 140.04 of this chapter). (1-1-94)

111. -- 124. (RESERVED).

125. PROJECT TIME LIMITATIONS.

The project shall be completed by the applicant within twenty-four (24) months of the federal contract signing. (1-1-94)

126. -- 139. (RESERVED).

140. ELIGIBLE PROJECTS.

01. Generally. LWCF grants are available for up to fifty percent (50%) of the cost to acquire or develop land which is to be used for outdoor recreation purposes and is to be held in perpetuity for public outdoor recreation uses. (1-1-94)

02. Less Than Fee Acquisition. Acquisition of less than fee interest, such as easements and development right, shall be considered in the same manner as simple fee acquisition subject to the following conditions: (1-1-94)

- a.** The interest cannot be revocable; (7-1-93)
- b.** The value can be supported through standard appraisal techniques; and (1-1-94)
- c.** Recreation can be demonstrated as the primary purpose of the acquisition. (7-1-93)

03. Ineligible Projects. Acquisitions or developments which do not contribute directly to general public outdoor recreation facilities or activities are ineligible for LWCF funding. Acquisition of leases are not eligible. (7-1-93)

04. SCORTP. LWCF grants are available for up to fifty percent (50%) of the cost of the SCORTP. (1-1-94)

141. -- 154. (RESERVED).

155. ELIGIBLE PROJECT COSTS.

IDPR may place restrictions on reimbursement of some acquisition and development costs. (1-1-94)

156. -- 169. (RESERVED).

170. ACQUISITION OF PUBLICLY OWNED LANDS.

The cost to the sponsor of land purchased from another public agency is generally not eligible for matching assistance. (7-1-93)

171. -- 184. (RESERVED).

185. ACQUISITION OF STRUCTURES.

Structures which are proposed to be retained and are incidental to the land are eligible for LWCF matching funds if they are to be used primarily for support facilities for outdoor recreation activities. The anticipated use shall be clearly identified in the project application so that IDPR may exercise reasonable judgment in determining the eligibility of the structure for funding assistance. (1-1-94)

186. -- 199. (RESERVED).

200. WAIVER OF RETROACTIVELY.

01. Generally. The SLO may grant permission to a sponsor to proceed prior to normal processing of an application through a written waiver of retroactively. This shall not be construed as a qualitative approval of the proposed project. Should the project subsequently be approved, the costs incurred shall be eligible for assistance. (1-1-94)

02. NPS Waiver Required. The SLO shall not grant a waiver of retroactivity until the NPS has issued its waiver of retroactivity. A waiver shall be granted only if LWCF moneys are available and only if an emergency situation warrants it. (1-1-94)

03. Limitations. Retroactive development costs are not eligible for reimbursement, other than expenses necessary for planning a development project and then only if it is specifically requested in the project application. (7-1-93)

201. -- 214. (RESERVED).

215. ENCUMBRANCES.

Property rights obtained with LWCF assistance must be free of all reservations or encumbrances which would limit the use of the site disproportionate to the public benefit. (7-1-93)

216. -- 229. (RESERVED).

230. ACQUISITION COSTS EXCEEDING FAIR MARKET VALUE.

An approved appraisal is an acceptable estimate of property value (see Section 350 of this chapter). The negotiation between a willing seller and a willing buyer may set a price that is higher than the appraisal, and this market place value can be considered along with the appraised value in establishing the reasonable limits of assistance. If the sponsor believes that the negotiated price is a better indication of market value, yet it is higher than the appraised value, a detailed and well documented statement of this differences shall be submitted, together with a formal request for a cost increase (see Section 620 of this chapter). (1-1-94)

231. -- 259. (RESERVED).

260. ACQUISITIONS INVOLVING COMPATIBLE MULTIPLE USES.

Nonrecreation uses, such as timber management, grazing, and other natural resource uses, may be carried out on lands acquired with LWCF assistance if they are clearly compatible with and secondary to recreation use, and are approved by IDPR prior to execution of the project contract. (1-1-94)

261. -- 274. (RESERVED).

275. ACQUISITIONS INVOLVING NONRECREATION USE.

01. Nonrecreation Use Limited. Lands acquired with LWCF assistance are immediately dedicated to public outdoor recreation and therefore, in the interim period between acquisition and planned development, the public cannot be denied use. In some instances during this period the temporary continuation of nonrecreation uses of LWCF assisted areas may be appropriate if not at the expense of public use. Continuation of existing nonrecreation uses shall be approved by IDPR. When approved by IDPR, the used shall be phased out within three (3) years from the date of the acquisition. (1-1-94)

02. Life Estates. Life estates, whereby an owner is allowed to use the property to the end of his life, is an allowable nonrecreation use provided all of the following conditions are met: (1-1-94)

a. The life estate shall not totally limit public use of the site; (1-1-94)

b. The value of the life estate is not included within the total project cost as established through acceptable appraisal techniques; and (1-1-94)

c. The life estate provisions are approved by IDPR. (1-1-94)

276. -- 289. (RESERVED).

290. PUBLIC PARK AND SCHOOL DEVELOPMENT PROJECTS.

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. (1-1-94)

291. -- 304. (RESERVED).

305. DONATED REAL PROPERTY AS MATCHING SHARE.

01. Generally. The value of privately owned donated real property may be used as a portion or as all of the sponsor's matching share of an approved project when the transfer of title to the sponsor has not been accomplished prior to the execution by IDPR of the project contract, unless such action has been previously approved by IDPR under the waiver of retroactivity procedure (see Section 200 of this chapter). (1-1-94)

02. Limitations. The donation shall consist of real property which would normally qualify for LWCF funding. If the donation does not adjoin the tract being acquired or is not being developed as part of the project then it shall stand on its own merits as an acceptable public recreation area in order to be considered an eligible donation. It also shall be within the jurisdiction of the sponsor. (1-1-94)

03. Appraisal Required. The value of the donation shall be established by an appraisal report prepared under the provision of Section 350 of this chapter. Any portion of the value of the donation not utilized by the sponsor for matching in the project is not available for subsequent projects. The amount of donation that is matchable is the value of the land donation up to the limit of the local agency's share of the project. The maximum reimbursed by IDPR shall never exceed the cash expended on the project. (1-1-94)

306. -- 319. (RESERVED).

320. DONATED GOODS AND SERVICES AS MATCHING SHARE.

01. Generally. Donated services, materials and equipment are eligible for reimbursement. Allowable rates shall be agreed upon by IDPR prior to initiation of construction and shall be in accordance with current federal regulations and state rules. Partial reimbursement on projects involving such donations shall be limited to the amount of actual cash outlay by the grantee. (1-1-94)

02. Excess Value. Donated services above the needs for a project are not eligible for further funding assistance. (7-1-93)

03. Requirements. Donated services may be furnished by professional and technical personnel, consultants, and other skilled or unskilled labor. The services shall be an integral and necessary part of an approved project. Rates for donated services shall be consistent with those paid for similar work in other activities of the state or local government. In those instances in which the required skills are not found in the sponsor's organization, rates shall be consistent with those paid for similar work in the labor market in which the sponsor competes for the kind of services involved. (1-1-94)

321. -- 334. (RESERVED).

335. FORCE ACCOUNT AS MATCHING SHARE.

All or a portion of the sponsor's share can be provided through force account (i.e., use of sponsor's staff and equipment) when such contributions are verifiable from the sponsor's records, are not included as contributions for any other IDPR program, and are necessary and reasonable for proper and efficient accomplishment of the project. (7-1-93)

336. -- 349. (RESERVED).

350. APPRAISAL REQUIREMENTS.

A real estate appraisal is required for all land to be acquired. The appraisal shall be prepared and paid for by the sponsor. The type of appraisal to be used shall be determined by the cost of the property, and difficulty of the appraisal assignment. All appraisal shall be done according to "Uniform Appraisal Standards for Federal Land Acquisitions." (1-1-94)

351. -- 364. (RESERVED).

365. APPRAISAL REVIEWS.

IDPR shall review appraisals as necessary. Any appraisal report that does not meet the basic content requirement or use correct analysis procedures shall be corrected to the satisfaction of IDPR. All costs shall be paid by the sponsor. (1-1-94)

366. -- 379. (RESERVED).

380. REVENUE FEASIBILITY STUDIES.

At the discretion of the SLO, a feasibility report prepared by a fiscal specialist may be required prior to funding consideration by the board. Specifically, it shall provide the SLO with detailed financial information and data which shall be incorporated in staff recommendations to the board. This report shall be paid for by the sponsor. (1-1-94)

381. -- 394. (RESERVED).

395. TECHNICAL REVIEW.

At the discretion of the SLO, a technical report prepared by a licensed, certified engineer may be required prior to funding consideration by the board. This report shall be paid for by the sponsor. (1-1-94)

396. -- 409. (RESERVED).

410. FUNDING CYCLE.

01. Generally. A funding cycle shall be held at a minimum of once every two (2) years with the following exception: subject to the level of funding, the board may suspend (through formal action at any regular meeting) a funding cycle. (1-1-94)

02. Procedure. The funding cycle shall consist of the following: (7-1-93)

a. Notification to begin a funding cycle shall be made no less than ninety (90) days before applications are due. (1-1-94)

b. The evaluation committee meeting shall be held within one hundred twenty (120) days of the application due date. (1-1-94)

c. Recommendations shall be formulated by IDPR staff within thirty (30) days following the evaluation committee meeting and shall be made to the board no later than the next regularly scheduled meeting. (1-1-94)

d. Subject to the level of funding, the board may suspend (through formal action at any regular meeting) the evaluation committee meeting and may elect to adopt staff recommendations. (1-1-94)

03. Fees. At the discretion of the SLO, fees may be charged for the various stages of any funding cycle. When charged, fees shall be assessed equally on all applicants. Fees charge may not exceed fifty dollars (\$50) for all stages combined. (1-1-94)

411. -- 424. (RESERVED).

425. APPLICATION PROCEDURE.

01. Initial Review. Participation manuals are available to guide sponsors in preparing projects for funding consideration. Materials submitted for consideration shall be reviewed by IDPR staff for completeness and for project eligibility. Once all application materials are submitted and a project is determined to be potentially eligible under criteria established in the OPSP, IDPR shall ask the sponsor to make a presentation to the evaluation committee. (1-1-94)

02. Eligible Projects. Eligible projects shall be ranked according to the (OPSP (see Section 440 of this chapter) and approved by the board (see Section 470 of this chapter). Full federal application materials shall be submitted to NPS for final funding approval (see Section 485 of this chapter). (1-1-94)

426. -- 439. (RESERVED).

440. OPEN PROJECT SELECTION PROCESS (OPSP).

01. Generally. The procedures outlined in OPSP through the SCORTP process are for the purpose of defining criteria which a proposed LWCF project shall meet in order to be eligible for funding, and to establish priorities on the basis of which competing eligible projects can be rated objectively. The intent is to ensure that available funds are used to fund those projects which most nearly satisfy the intent of the LWCF Act, and the recreational needs of the people of Idaho. (1-1-94)

02. Requirements. Requirements for the SCORTP and the OPSP can be found in the "LWCF Participation Manual," available from IDPR or NPS. (1-1-94)

03. Availability. Copies of the SCORTP and the OPSP criteria used in prioritizing those projects submitted for LWCF assistance may be obtained from IDPR or NPS. Typically, this criteria is provided in all LWCF application guidelines. (1-1-94)

04. Suspension of OPSP. Subject to the level of funding, the board may elect to suspend OPSP (through formal action at any regular meeting). (1-1-94)

441. -- 454. (RESERVED).

455. EVALUATION COMMITTEE.

01. Composition. The evaluation committee includes representatives with experience in community development or public outdoor recreation. The committee shall rank projects based on its review of the application and a presentation by the sponsor. It shall rate all projects based on the selected criteria found in OPSP. The evaluation committee includes nine (9) members as follows: (1-1-94)

a. Three (3) members shall be representatives of state and federal agencies with a technical relationship to community development or the outdoor recreation needs in the state. (1-1-94)

b. One (1) member shall represent a community of five thousand (5,000) population or more (1-1-94)

c. One (1) members shall represent a community of five thousand (5,000) population or less. (1-1-94)

d. One (1) member shall represent the interests of ethnic minorities. (1-1-94)

e. One (1) member shall represent the interests of the elderly. (1-1-94)

f. One (1) member shall represent the interests of people with disabilities. (1-1-94)

g. One (1) member shall be from the board. (1-1-94)

02. Quorum. A quorum is required to conduct committee business. Five (5) people constitute a quorum. (1-1-94)

03. Appointment and Term. Members are appointed by and serve at the discretion of the SLO for three (3) funding sessions and may be reappointed, except, the board member shall be selected by and serve at the discretion of the board. As necessary, the SLO shall provide public notice of available seats. Any interested individual or organization may nominate individuals to serve on the committee. (1-1-94)

456. -- 469. (RESERVED).

470. BOARD REVIEW AND APPROVAL.

The board reviews and approves projects according to the priority list provided by IDPR staff. Applications are submitted to NPS according to priority after LWCF moneys have been appropriated by congress and allocated to the state. (1-1-94)

471. -- 484. (RESERVED).

485. NPS PROJECT APPROVAL.

When a project is approved by NPS, the announcement is made by one of the state's congressional delegation following notification from IDPR. All appraisals, title and deed work shall be finalized prior to submitting a project to NPS. (1-1-94)

486. -- 499. (RESERVED).

500. PROCEEDING ON THE PROJECT.

After project approval, the IDPR staff assists the sponsor in meeting the requirements of the LWCF including providing information on the steps and required documentation for acquisition and development projects along with financial responsibilities and allowable costs. The sponsor shall complete work on the project according to the scope elements in the state/local agreement. (1-1-94)

501. -- 514. (RESERVED).

515. DISBURSEMENT OF FUNDS.

01. Authorization. Except as otherwise provided herein, the SLO shall authorize disbursement of funds allocated to a project through reimbursement basis. The LWCF program is a reimbursement program, which means that the participants shall initially pay all project costs and then seek reimbursement through IDPR. (1-1-94)

02. Documentation. Reimbursement not be made by IDPR until deed, title insurance and appraisal requirements are satisfied on all projects. Reimbursement may be made on development or combination acquisition and development projects once construction shows evidence and reasonable progress toward the completion of all scope elements and LWCF requirements. (1-1-94)

03. Partial Reimbursement. Partial reimbursement shall not be made for projects where the project sponsor's matching share is less than fifteen thousand dollars (\$15,000). When reimbursement is granted prior to project completion, the sponsor shall receive a reimbursement for fifty percent (50%) of the eligible costs incurred less a fifteen percent (15%) hold back. When the project has been completed and receives final approval from IDPR, the sponsor shall be paid the fifteen percent (15%) hold back. If multiple payments are to be incurred as part of the project, the final payment may be used as the fifteen percent (15%) hold back. (1-1-94)

04. Request for Reimbursement. Reimbursement shall be requested by local governmental agencies on voucher forms provided by IDPR and shall include all required documentation. The sponsor will receive a reimbursement for fifty percent (50%) of the eligible costs incurred. The amount of reimbursement shall never exceed the cash expended on the project. (1-1-94)

05. Advance Payment. An advance payment is a payment made to a sponsor upon its request before cash outlays are made by the sponsor or payment made through the use of predetermined payment schedules before such payments are due. Advance payment may be made subject to the conditions outlined below: (1-1-94)

a. IDPR will consider the payment of advances on development projects where the matching share is non-cash, and on acquisition projects where funds must be available up front in order to prevent the loss of an available site to other interested buyers. Such advances must receive prior approval of NPS. A written request must be submitted by the sponsor to IDPR to initiate the process. (1-1-94)

b. Advances shall be timed and procedures observed to assure that cash withdrawals occur only as and when essential to meet the needs of the project sponsors. Advances shall be limited to the minimum amounts needed

and shall be timed to be in accord with the requirements of carrying out the purpose of the approved project. Any moneys advanced to the sponsor are public moneys (owned by the Federal Government and the State of Idaho) and must be deposited in a bank with FDIC insurance coverage and the balances exceeding the FDIC coverage must be collaterally secure. (1-1-94)

c. One (1) month after the advance has been received, the sponsor shall submit a billing indicating expenditures made from the advanced funds. This shall be used by IDPR as a basis for liquidating obligations, reducing the advance account and making charges to the appropriate cost account. (1-1-94)

d. At least monthly, IDPR shall review the sponsor's disbursements of advanced funds for reasonableness of cash balances on hand. In the event IDPR determines a sponsor is making insufficient progress using advanced funds, IDPR may request an immediate refund. (1-1-94)

516. -- 529. (RESERVED).

530. PROJECT CONTRACT.

For every funded project, a project contracts shall be executed. The project contract shall be prepared by the IDPR staff subsequent to approval of the project. Upon execution by the sponsor, the parties shall thereafter be bound by the project contract terms. The sponsor may not proceed with the project until the project contract has been executed. IDPR may not execute a project contract until federal funding has been authorized by NPS. (1-1-94)

531. -- 544. (RESERVED).

545. CONTROL AND TENURE.

The sponsor shall have title to or adequate control and tenure of the area to be developed. The sponsor shall list all outstanding rights or interests held by others in the property to be developed. In the event that outstanding rights later prove to be incompatible with public outdoor recreation uses of the site, the sponsor assumes the responsibility for having to replace the facilities developed with state or federal assistance with others of at least equal value and reasonably equivalent usefulness and location at the sole cost of the sponsor. (1-1-94)

546. -- 559. (RESERVED).

560. APPLICABILITY.

All LWCF requirements apply to each area or facility, regardless of the extent of LWCF assistance. When LWCF development assistance is given to a project limited to less than a complete recreational property, all lands immediately adjacent to that LWCF development which are designated as recreational property shall be identified as being within the LWCF project boundary and shall be subject to LWCF guidelines. (1-1-94)

561. -- 574. (RESERVED).

575. SPONSOR COMMITMENT.

A proclamation from the sponsor's governing body committing the project and the sponsor to LWCF requirements shall be submitted to IDPR prior to IDPR project approval. (1-1-94)

576. -- 589. (RESERVED).

590. RESTRICTION ON TITLE.

Land acquired in fee or developed with outdoor recreation funds shall be dedicated to outdoor recreation use in perpetuity by a recorded "Deed of Right to Use Land for Public Recreation Purposes" (Deed of Right) which conveys a real property interest to the public. This shall be executed and recorded by the sponsor after it has taken title to the property, and before it applies for reimbursement. (1-1-94)

591. -- 604. (RESERVED).

605. RECORDS.

Project records shall be maintained by the state and sponsor for three (3) years after final payment. The material shall be maintained beyond the required three (3) year period if audit findings have not been resolved. Property records

shall be maintained in perpetuity. (1-1-94)

606. -- 619. (RESERVED).

620. PROJECT AMENDMENTS, COST INCREASES AND TIME EXTENSIONS.

01. Amendments. The project contract may be amended by execution of a project amendment. All amendment requests shall be made in writing and shall include a detailed justification. Sponsors are expected to complete projects as originally proposed and evaluated. However, amendments for minor changes in scope may be requested. Cost increases of twenty-five percent (25%) or more or changes in project elements which change the total project cost by twenty-five percent (25%) or more shall require that the project be presented as a totally new proposal and compete through the OPSP (see Sections 440 through 485 of this chapter) during a current funding cycle. Should the revised project not receive enough points to be funded, the sponsor shall be required to complete the scope of the project as originally proposed at its expense or return any funds reimbursed so that the project may be cancelled and the funds reallocated. This does not apply to SCORTP projects. (1-1-94)

02. Cost Increases on Development Projects. For cost increase requests on development projects to be considered, all of the following requirements shall be met: (1-1-94)

a. The increase, or any portion thereof, is to be used only for costs incurred on elements specified in the project agreement; and (1-1-94)

b. The sponsor has initiated implementation of the project in a timely manner and has had little control over the condition causing the cost overrun. (7-1-93)

03. Cost Increases on Acquisition Projects. Acquisition project cost increases shall meet all of the following conditions: (1-1-94)

a. The increased market value is supported by an acceptable appraisal; (1-1-94)

b. The sponsor has diligently pursued the acquisition; and (1-1-94)

c. If increased relocation costs have caused a cost overrun, an explanation shall be required. (1-1-94)

04. Condemnation. Acquisition cost increases based on condemnation awards, if granted, shall be based on compensation for the property and direct relocation costs; no court or legal costs are eligible for reimbursement. (1-1-94)

05. Basis for Cost Increase. Cost increase requests for development projects are based on the total approved costs. Cost increase requests for acquisition projects are based on a parcel by parcel determination. (1-1-94)

06. Extensions of Time. Extensions of time limitations shall be considered if based on unavoidable circumstances such as condemnation of property for acquisition projects and delays due to unusually poor weather or unavailability of supplies for a development project. Extensions shall generally be granted in six (6) month intervals. Avoidable project delays shall result in loss of funding with the sponsor being required to return any funds reimbursed so that the project can be cancelled. (1-1-94)

621. -- 634. (RESERVED).

635. DEVELOPMENT PROJECT CONTRACT REQUIREMENTS. Development projects shall require competitive bidding according to state and federal statutes. (1-1-94)

636. -- 649. (RESERVED).

650. CONVERSION TO OTHER USES.

01. Generally. Property acquired or developed with LWCF assistance shall not be converted to other

than public outdoor recreation uses without prior approval of the SLO and the NPS regional director. The SLO has authority to disapprove conversion requests or to reject proposed property substitutions. (1-1-94)

02. Prerequisites to Approval of Conversion. IDPR shall only consider a conversion request once the following prerequisites have been met: (1-1-94)

- a.** All practical alternatives to the conversion have been evaluated and rejected on a sound basis. (7-1-93)
- b.** At least thirty (30) days prior to IDPR submitting a request to NPS to convert LWCF properties, the sponsors shall hold a public hearing. (1-1-94)
- c.** The fair market value of the property to be converted has been established and the property proposed for substitution is of at least equal fair market value as established by a state approved appraisal. (7-1-93)
- d.** The property proposed for replacement is of reasonably equivalent usefulness and location as that being converted. It shall be administered by the same political jurisdiction as the converted property. (1-1-94)
- e.** The property proposed for substitution meets the eligibility requirements for LWCF assisted acquisition. The replacement property shall constitute or be part of a viable recreation area. (1-1-94)
- f.** Public land may not be used for substitution on acquisition projects unless it meets the criteria for an eligible acquisition project. However, in the case of development projects for which the state match was not derived from the cost of the purchase or value of a donation of the land to be converted, public land not currently dedicated to recreation or conservation use may be used as replacement land even if this land is transferred from one public agency to another without cost. (7-1-93)
- g.** All necessary coordination with other federal agencies has been satisfactorily accomplished. (7-1-93)
- h.** The guidelines for environmental evaluation have been satisfactorily completed and considered. (7-1-93)
- i.** The proposed conversion and substitution are in accord with the SCORTP. (1-1-94)
- j.** Staff consideration of the above points reveals no reason for disapproval and the project files are so documented. (7-1-93)
- k.** It should also be noted that the acquisition of one (1) parcel of land may be used in satisfaction of several approved conversions. However, previously acquired property cannot be used to satisfy substitution requirements except in the case of development projects. (7-1-93)

03. Project Amendments. Approved conversions require amendments in the project contract when the property to be substituted is off site or when replacement of property is deferred. (7-1-93)

04. Fees. Deposit, cost and fees for the administration and management of the LWCF conversion process shall be as follows: (1-1-94)

- a.** The sponsor shall be required to pay a deposit of two and five-tenths percent (2.5%) of the appraised value of the property or the total cost of the project grant, whichever is greater. This deposit shall not be less than one thousand dollars (\$1,000). (1-1-94)
- b.** IDPR shall charge the sponsor for all administrative costs relating to the conversion and a service fee of one percent (1%) of the current appraised value of the converted property. The service fee shall not exceed three thousand five hundred dollars (\$3,500) for each converted tract of property. (1-1-94)
- c.** The administrative costs and the service fee shall be deducted from the deposit. The sponsor shall

be reimbursed the remaining amount upon the successful completion of the conversion. Any incidental costs exceeding the deposit shall be paid by the sponsor. (1-1-94)

651. -- 664. (RESERVED).

665. USER FEES, CHARGES 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. (7-1-93)

02. Nonrecreational User Fees. Nonrecreational income that accrues to an outdoor recreation area other than the intended recreational use, including income from land management practices, shall derive from use which 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 shall 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 shall be used only to offset the expense of operation and maintenance of the facility. (1-1-94)

666. -- 679. (RESERVED).

680. PERMANENT PROJECT SIGNS.

Permanent public acknowledgment of LWCF assistance at project sites is required on at least one prominently placed area identification sign. The LWCF symbol established and provided by IDPR shall be used for such acknowledgment at the project site entrance, or other appropriate locations. The sponsor may desire to provide a more detailed identification. IDPR staff shall approve the sponsor's park sign prior to its construction to ensure proper designation is included. (1-1-94)

681. -- 694. (RESERVED).

695. ARCHITECTURAL BARRIERS.

Sponsors in the LWCF programs shall assure that persons with disabilities are not precluded from the use of LWCF assisted recreational facilities. (1-1-94)

696. -- 709. (RESERVED).

710. UNIFORM RELOCATION COMPLAINT PROCEDURE.

The two (2) appeal procedure recommended by NPS shall be an appeal to the SLO and then to the board for resolution (see IDAPA 26.01.01.250, "Rules of Administrative Procedure of the Idaho Park and Recreation Board"). (1-1-94)

711. -- 724. (RESERVED).

725. AVAILABILITY TO USERS.

01. Nondiscrimination. Property shall be open to entry and use by all persons regardless of race, color, or national origin. Discrimination is also prohibited on the basis of age, disability, religion or gender. (1-1-94)

02. Seasons and Hours. Facilities shall be kept open for public use at reasonable hours and times of the year based on intended use. (1-1-94)

726. -- 739. (RESERVED).

740. CIVIL RIGHTS COMPLAINT PROCEDURE.

An opportunity is provided for filing civil rights complaints. A written complaint shall be filed with the SLO within one hundred eighty (180) days from the date the alleged discrimination occurred. Within ten (10) working days of IDPR receiving the complaint, the complainant shall be notified of action that has been or shall be taken to resolve the complaint. An investigation shall be conducted by the deputy director or his designee within thirty (30) working days of IDPR's receipt of the complaint. The SLO or SLO's designee shall send a written response to the complainant regarding the results of the investigation within thirty (30) working days of the time the investigation began. If dissatisfied with the results of the investigation, the complainant may submit a written request for reconsideration to the SLO within ten (10) days of the receipt of resolution. The complainant may also file a complaint with the Idaho Human Rights Commission and The Office of Equal Opportunity. Addresses are available from IDPR. (1-1-94)

741. -- 999. (RESERVED).

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