



UTAH DIVISION OF OUTDOOR RECREATION

Land and Water Conservation Fund

2024 Guidelines



INTRODUCTION

PURPOSE

The Land and Water Conservation Fund (LWCF) stateside grant program (54 U.S.C.A. § 200305 formerly P.L. 88-578) was established to encourage and assist local and state government agencies in creating new and expanded high-quality public outdoor recreation areas and facilities by providing (1) for statewide planning and (2) for financial assistance. The program became effective on January 1, 1965. It is financed primarily from revenues derived from outer continental oil and gas leasing and is appropriated by Congress. This is a federal grant to the State of Utah that is sub-granted to local governments for specific outdoor recreation projects.

SCOPE OF GRANTS

Assistance may be provided for the acquisition (Acquisition Grant) of real property for public outdoor recreation use and/or development (Development Grant) of outdoor recreation facilities on property owned by the applicant. Projects that include acquisition and development (Combined Grant) are also within the scope of the LWCF grant program. Projects must serve the needs of the general public rather than special interest groups.

TERMS

Grants require at least a 50% state or local match. Approved projects are funded on a cost-reimbursement basis. Eligible projects must be in accordance with Utah's Outdoor Recreation Plan (UORP) – otherwise known as the Statewide Comprehensive Outdoor Recreation Plan (SCORP). The applicant must agree to **permanently/perpetually** dedicate approved project sites for public outdoor recreation use and accept responsibility for the operation and maintenance of the facilities.

Minimum grant request: \$50,000 (\$100,000 total project)

Maximum grant request: \$2,500,000 (\$5,000,000 total project)

CONTACT INFORMATION

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ELIGIBILITY REQUIREMENTS

ELIGIBLE PARTICIPANTS

1. State agencies
2. Counties
3. Incorporated cities and towns
4. Special improvement or service districts
5. Federally recognized American Indian Tribes

ELIGIBLE PROJECTS

ACQUISITION PROJECTS: Projects solely devoted to the acquisition of land for the development of public outdoor recreation.

1. All projects involving land acquisitions are subject to the provisions of the “Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970,” as amended (P.L. 91-646). Failure to comply with P.L. 91- 646 may result in project ineligibility for LWCF assistance. This Act deals with two major areas of concern:

The establishment of uniform policies and procedures must be followed when acquiring real property so that all persons receive fair and equitable treatment and be offered the fair market value for their property as determined by a competent appraiser.

The establishment of a uniform policy for fair and equitable treatment of persons who must relocate their homes, farms, or businesses as a result of a federal or federally assisted action.

2. In order to comply with P.L. 91-646, the following steps should be taken:
 - a. Initial contact is made with the property owner. No price is negotiated at this time.
 - b. An appraisal is completed by a qualified appraiser using standards that are in accordance with the current “Uniform Appraisal Standards for Federal Land Acquisitions” (Yellow Book).
 - c. The owner must be given the opportunity to accompany the appraiser during the inspection of the property. This should be documented by the appraiser in his report or by the acquiring agency.

- d. The State may approve the preparation of a waiver valuation per 49 CFR 24.102(2)(ii) for acquisitions that are uncomplicated and the estimation of the value of the real property is less than \$10,000. The waiver valuation cap can be raised to \$25,000 if the acquiring agency offers the owner the option to have an appraisal and the owner elects to have the agency prepare a waiver valuation instead. Appraisals for more than \$25,000 must be an analytical narrative report involving the application of standard techniques, such as comparative or market-value, cost-less depreciation, and income approaches to value.
- e. The owner must be advised in writing of the fair market value of his property and of his rights concerning relocation and replacement housing assistance if applicable. A written offer to purchase should then be made at the approved appraisal value. Forms for the offer to purchase and statement of just compensation are available upon request.
- f. A minimum one-year option should be secured based on the appraised value, prior to making an application for LWCF assistance. An option agreement may constitute an acceptable written offer to purchase if it is made at the appraised value.
- g. Only in unusual circumstances may acquisitions at less than fair market value be eligible. If an owner has been offered the fair market value for his property but desires to sell for less, the seller must provide a written waiver of his right to just compensation, indicating the reasons for accepting less. Waiver forms are available upon request.
- h. No retroactive acquisition costs are eligible for grant assistance, with the exception of option payments that may be used against the purchase price upon acquisition.
- i. The owner must be reimbursed for certain costs of acquisition, such as title insurance and transfer fees.
- j. If the displacement of any person will result from this action, P.L. 91-646 requires that written notification be given to the occupants, at the time negotiations begin, that advises them of their rights and entitlements. Owner-occupants and renters are entitled to certain financial aid as a result of their forced relocation.

3. Acquisitions that are not eligible for assistance include the following:

- a. Acquisition of a historical structure where the principal interest is in the structure itself and the structure does not otherwise contribute to outdoor recreation. Acquisition of property for primarily historic/cultural purposes wherein outdoor public recreation would be constrained or curtailed by the property's historic values/resources.
- b. Acquisition of property as part of a larger project where public outdoor recreation use cannot be identified within the particular tract itself.
- c. Property with a primary use other than public outdoor recreation.
- d. Property that is encumbered by or will be encumbered by a conservation easement that may limit or curtail public outdoor recreation.

4. The project sponsor must acquire fee title to the land. Reservations and rights held by others are permissible only if it is determined that public outdoor recreation purposes would not be affected. If the project sponsor cannot show adequate control and tenure of the divided estate, then the acquisition is not eligible. The project sponsor shall provide a description of all outstanding rights held by others and identify them on the Section 6(f)(3) boundary map (this includes easements and rights of ways).

DEVELOPMENT PROJECTS: Projects involving the development of public outdoor recreation and related facilities that directly support the public recreation use of the area. Locate additional [funding sources](#) provided by the State.

1. Participants must own fee title to the land on which development will occur. The land must be free of encumbrances that could curtail public outdoor recreation. Property that is encumbered by or will be encumbered by a conservation easement that will/may limit or curtail public outdoor recreation is ineligible for LWCF grants.

2. Development plans should be based on the needs of the public. Facilities should be attractive and consistent with the setting. Depending on the nature and location of the project, improvements and structures should be designed as much as possible to be in harmony with the natural environment.

3. Compliance with P.L. 91-646, "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970", is required for the development of project sites acquired after January 2, 1971. A statement of compliance with this Act is required as part of the application for grant assistance.

4. Assistance may be available for the development of a broad range of public outdoor recreation facilities; however, projects that are **not eligible** for grant assistance include the following:

- a. Restoration or preservation of historic structures; however, outdoor recreation facilities and their support facilities in conjunction with historical structures or sites may be eligible for assistance.
- b. Development of areas and facilities to be used primarily for semi-professional or professional arts and athletics, such as professional-type outdoor theaters and rodeo arenas. Grandstands or large bleachers.
- c. Development of amusement facilities (such as merry-go-rounds, Ferris wheels, children's railroads, pioneer towns, zoos, livestock and produce exhibit facilities and allied exhibit type developments), convention facilities, commemorative exhibits, or the construction of facilities, including their furnishings, that are only marginally related to outdoor recreation.
- d. Construction of and furnishings for employee residences or temporary housing.
- e. Construction or renovation of lodges, motels, luxury cabins, or non-austere cabins. However, cabins and group camp dormitories of a simple, austere design may qualify. If the group camp facilities are to be designated for specific groups or if specific groups will be given priority use, the development does not qualify for assistance. An example would be an area designed specifically for Boy Scout use.
- f. Development projects in new or previously undeveloped recreation areas that consist solely of support facilities, unless it is clearly indicated in the project proposal that they are required for proper and safe use of an area that does not require additional outdoor recreation facilities to be functional (such as the construction of restrooms at a public nature study area), or that necessary outdoor recreation facilities are being developed concurrently without grant assistance.
- g. Support facilities, such as roads and sewer systems, exclusively to serve ineligible facilities. However, if the support facilities will serve both eligible and ineligible facilities, the cost may be prorated between the two uses.
- h. Development of nature and geological interpretive facilities that go beyond interpreting the project site and its immediate surrounding area.
- i. Development of outdoor recreation and outdoor recreation support facilities for which Exhibit "R" of a utility company's license application, filed with the

Federal Power Commission, indicates are to be developed without Federal financial assistance.

- j. Development of school athletic facilities, such as stadiums, running tracks for interscholastic athletics, and athletic fields with grandstands or more bleacher capacity than would normally be required for non-interscholastic athletic use.
- k. Enclosed recreation facilities, with the exception of support facilities, swimming pools, and ice rinks.
- l. Construction of community centers, fire/police stations, cell towers, water tanks, and other governmental buildings/facilities.
- m. Trailheads or individual/single/stand-alone trails that are not part of an existing recreation facility. Funding for trails is provided by Utah's Recreational Trails Program.

5. The "Flood Disaster Protection Act of 1973", P.L. 93-234, requires the purchase of flood insurance as a condition of receiving any Federal assistance in a flood plain area, identified as such by the Federal government as an area that has special flood hazards, and located within a community currently participating in the National Flood Insurance Program. Insurable improvements are restrooms, bathhouses, interpretive buildings, and maintenance buildings.

6. LWCF projects must be designed and constructed to comply with the "Uniform Federal Accessibility Standards". Compliance with the Architectural Barriers Act of 1968, 42 U.S.C. 4151-4157, Americans with Disabilities Act of 1990 (amended in 2010), and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 792, is mandatory.

7. Any easements or rights of ways located under or across the property to be encumbered may **not** curtail or restrict public outdoor recreation. Copies of all easements and rights of ways that impact the project area must be supplied with the application.

COMBINED PROJECTS: Projects that involve both the acquisition of land and recreational development of said land. Utah's LWCF grant program does **not** fund acquisition projects for individual/single/stand-alone trail alignments or Rights-of-Ways. Utah's LWCF grant program does not fund development projects for individual/single/stand-alone trails that are not part of an existing recreation facility. View [additional funding sources](#) available through the State.

- 1. As the name suggests, the eligibility requirements for combined projects include all the criteria from both the Acquisition and Development Projects in order to be considered for funding.

New Closeout Requirement

Before a project is finalized through the National Park Service's close-out procedures, which includes the final reimbursement, the sponsor is required to record a notice of the grant agreement in the appropriate county recorder's office. The notice must include the final signed and dated project boundary map made part of the state agreement and a statement that identifies that the property has been acquired and/or developed with Land and Water Conservation Fund assistance and that it cannot be converted to other than public outdoor recreation uses without the written approval of the Secretary of the Interior. The National Park Service may also require the sponsor to record this language against the deed.

OPERATION AND MAINTENANCE OF PROJECT SITES

Property acquired or developed with assistance from the LWCF shall be **permanently/perpetually** dedicated for public outdoor recreation use. Any change from public outdoor use (installation of cell towers, construction of a firehouse, sale to a private entity or school district - as examples) will constitute a conversion of use as outlined in Section 6(f) of the LWCF Act and will require replacement of the impacted land in accordance with Department of Interior guidelines – **the sponsor cannot pay the grant back or move the grant encumbrance to another existing park.**

Property acquired or developed with assistance from the LWCF shall be operated and maintained as follows:

1. The property shall be maintained so as to appear attractive and inviting to the public.
2. Sanitation and sanitary facilities shall be maintained in accordance with applicable state and local public health standards.
3. Properties shall be kept reasonably safe for public use. Fire prevention, safeguarding, and similar activities shall be maintained to prevent the loss of lives to users.
4. Buildings, roads, and other structures and improvements shall be kept in reasonable repair throughout their estimated life so as to prevent undue deterioration and not to discourage public use.
5. Facilities shall be open to the public during reasonable times and seasons.
6. Property shall not be converted to non-conforming uses such as cell towers, community centers, libraries, community art centers, fire stations, police stations, senior homes/centers, and/or commercial development, etc. If a sponsor is considering converting the 6F property, they should contact the LWCF Coordinator to ensure proper conversion procedures are followed.

APPLICATION INFORMATION

PHASE ONE: LWCF applications are the first stage of a competitive process. All applications are reviewed, and the projects are ranked through an evaluation process that has been cooperatively developed by the state and the National Park Service. Proposals are evaluated on:

- How well the project addresses an outdoor recreation need identified in the 2019 Utah Statewide Comprehensive Outdoor Recreation Plan (SCORP).
- Application completeness
- Technical merits
- Previous recreation program performance
- Project readiness
- Availability of local funding
- Site visit/inspection

The highest-scoring projects are invited to begin the second phase of the selection process, which includes the final environmental screening. If the applicant successfully completes the second phase, their project may become a potential selection for recommendation to the National Park Service for their approval.

An application form is provided which includes the basic information required for grant approval. Please fill this form out completely. Incomplete information will only detract from your chances of receiving grant approval.

Be specific when identifying the source of your local matching funds. The local match must at least equal the federal assistance being requested. **Also, donations may not exceed 25% of the total project cost (half the local match) for application purposes.** For eligibility, the applicant must show proof of the donations with a letter of guaranteed support or another document that evidences that the donations will be provided if the applicant is successful in securing this grant. If the applicant does not provide evidence of donated funds, their application will be disqualified from the grant round.

Do not reorder or change the questions in the grant application. Any modification to the application other than filling out the sections may disqualify the application from consideration. Additional information and attachments are required as explained on the application form. Some of the forms mentioned are provided and require only signatures. Others require some planning and careful thought. Remember, your project will be competing with many others from all around the state.

The LWCF Preliminary application must be submitted **no later than March 1, 2024**. Late submissions will be rejected without consideration.

PHASE TWO: The preliminary application phase is used to rank applicants and determine which projects best meet the public outdoor recreation needs for the public. The nominated project sponsors must then complete the second phase of the project application. Since the LWCF state-side assistance program is a federal program, the sponsors may be required to complete an environmental analysis of the project site and its impacts. This includes cultural compliance. These studies must be completed in compliance with the National Environmental Protection Act (NEPA) P.L. 91-190 and the National Historic Preservation Act (NHPA) P.L. 89-665. The Division will work with each sponsor to determine the proper NEPA pathway. These added costs are the sole responsibility of the sponsor but may be reimbursable.