Program Manual

INDIANA

JANUARY 2007

RECREATIONAL TRAILS PROGRAM

A recreational trail development program funded by the Safe, Accountable, Flexible, Efficient Transporation Equity Act-A Legacy for Users (SAFETEA-LU)

FOREWORD

These guidelines explain the administration of the "Recreational Trails Program." If you have an older version of the RTP manual, please recycle it and replace it with this manual. The Indiana Department of Natural Resources' Division of Outdoor Recreation administers the monies available from Indiana's share of funds from TEA-21 to help government agencies and not-for-profit organizations develop recreational trail facilities for public use. This manual contains forms and information needed to complete your application as well as guidelines to complete your project. Directions for preparing the application are found in Chapter 2 of the guidelines. Please refer to the application checklist at the end of the chapter for assistance in submission of all required items. The appendix contains the forms required to be copied and submitted with original signatures and information for a complete application. The manual can also be viewed from our website at www.in.gov/dnr/outdoor/grants. Applicants should carefully review the entire Recreational Trails Program Guidelines Manual, paying particular attention to:

1. Chapter 1, The Recreational Trails Program. Consult this chapter for a summary of grant information as well as to determine eligibility.

2. Rating Criteria (Chapter 2). **The rating criteria is the most important component of the application!** Answer each criteria element thoroughly and include documentation to support your replies.

3. Chapters 5 & 6, Land Acquisition and Construction Procedures. If acquiring land, refer to the Uniform Appraisal Standards for Federal Land Acquisitions on the web at www.usdoj.gov/enrd/land-ack and obtain a list of DNR approved appraisers by calling 317/232-4050.

If you have any questions, please contact the grants staff of the SCORP Section. One copy of your application must be completed in full, clearly postmarked by May 1, 2007, and sent to the Division of Outdoor Recreation. If you choose to mail on May 1, we recommend that you request a certificate of mailing from your post office. If you plan to hand deliver the application it needs to be at our office by 4:30 PM on May 1st.

For further information, please contact:

State & Community Outdoor Recreation Planning Section
Division of Outdoor Recreation
Department of Natural Resources
402 W. Washington, Room W271
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Chapter 1

THE RECREATIONAL TRAILS PROGRAM

The Recreational Trails Program In Indiana

The Recreational Trails Program (RTP) is intended to provide funds to states for trails and trail related projects. This program gives the State of Indiana the opportunity to initiate projects to benefit all kinds of motorized and nonmotorized trail users. The RTP is managed by the U.S. Department of Transportation through the Federal Highway Administration (FHWA), in consultation with the Department of the Interior. The Department of Natural Resources' (DNR) Division of Outdoor Recreation has been assigned to administer the program for the State.

Recreational Trails Program funding represents a portion of the revenue received by the Federal Highway Trust Fund from the federal motor fuel excise tax paid by users of off-road recreational vehicles such as snowmobiles, off-road motorcycles, all-terrain vehicles, and off-road light trucks. These monies were made available from Indiana's share of funds from the Safe, Accountable, Flexible, Efficient Transportation Equity Act-A Legacy for Users (SAFETEA-LU). States are required to distribute monies to motorized uses (30%), non-motorized uses (30%), and diverse trail uses (40%). Multi-use trails are strongly encouraged.

In order for Indiana to be eligible for these funds, a Trails Advisory Board was established. The Trails Advisory Board is comprised of individuals representing different trail interest groups including: hikers, sportsmen and women, motorcyclists, bicyclists, mountain bicyclists, ATV riders, four wheel drive riders, snowmobilers, equestrians, trail users with disabilities, water trail users, park and recreation agencies, environmental groups, soil and water conservation districts, and trail support groups.

Eligible Participants

All units of government and organizations incorporated as not-for-profit corporations will be eligible to participate.

Eligible Projects

Land acquisition and/or development projects will be eligible for funding if they provide public access to trails for the aforementioned trail users as well as other unspecified trail users (i.e. roller bladers, cross-country skiers, etc). Projects can include, but are not limited to, the acquisition of land or easements; development of trails and trailheads; restoration of existing trails and trailhead facilities, stream and river access sites, bridges, boardwalks, crossings, signage, equestrian facilities, public trail information, safety and educational programs, sanitary facilities, and other support facilities.

Trails developed with RTP funds must be readily accessible to and usable by persons with disabilities. They also must be developed off of all regularly maintained roadways, including sidewalks and alleys.

Project costs must be commensurate with benefits. Development on easements will be acceptable if the easement is for a minimum of 25 years and provides public access. The grant applicant must agree to keep the project site in use as a public trail for a minimum of 25 years. Refer to Chapter 6 for details about development.

Due to the variety of project proposals, it is possible that while a proposed project may satisfy the eligibility and rating criteria, the completed project may not provide adequate public trail use opportunities. Therefore, the DNR reserves the right to disqualify proposals in which:

1. Costs exceed the public benefits.
2. The site requires intensive and high cost management.
3. Fees charged at the site are excessively high when compared to fees charged at similar facilities.
4. Any other situations where the public benefit will not justify the federal investment.
5. Adequate control and tenure of property is not provided.

This list is not inclusive and other reasons for disqualification may be determined as projects are reviewed. When a project is disqualified for any of the above mentioned reasons, the project sponsor will be notified in writing.

Grant Amounts

The Indiana Recreational Trails Program is a reimburseable grant. 80% matching assistance will be provided for eligible projects. Applicants may request a minimum amount of $10,000 and a maximum grant amount of $150,000.

Supplemental Grant Rounds

If there are more funds available than requested by applicants, the DNR may open a supplemental grant round. Ordinarily, an agency may submit one application per year; however, applicants may submit an additional application during a supplemental round.

Local Share

At the time of application the project sponsor must have at least 20% of the total project cost available. The local share may include tax sources (appropriations), bond issues, Community Development Funds, Farmers Home Administration Loans, or force account contributions. The donated value of land, cash, labor, equipment and materials may also be used. Chapter 2 contains more information on the local match for a grant.

Reimbursement

The project sponsor will not receive a cash grant at the time of project approval. Instead, the sponsor must pay the bills and be reimbursed for a maximum of 80% of the expenses incurred for the project

according to the terms of the project agreement. Reimbursement requests may be made periodically during the project period. Land donations will be credited towards the match of the sponsors share of the project. Billing procedures are explained further in Chapter 7.

Project Selection Process

If there are more requests for funding than available funds in a given year, the eligible applications will be funded in priority order based on an objective point ranking selection process. This process is explained in detail in Chapter 2. The Trails Advisory Board, which assists the DNR in determining policies for the Recreational Trails Program, will make a recommendation to fund applications in their ranked order to the DNR Director for approval of projects to receive funds from this program.

Dates of Eligible Contributions and Expenses

To be eligible for matching assistance, project costs must be incurred after the federal project approval date. The only costs incurred prior to federal project approval that are eligible for retroactive reimbursement are architectural/engineering, archaeological literature search, and grant application preparation fees which were included as preagreement costs in the grant application. Donations of equipment, labor, and materials must be contributed after federal grant approval. Cash contributions may be received at any time.

Chapter 2

WRITING THE GRANT APPLICATION

THE GRANT APPLICATION

This manual provides the instuctions to apply for a Recreational Trails Program grant and is available on the web at www.in.gov/dnr/outdoor. Hard copies are available upon request. Grant applications are due by May 1st of each year. This chapter includes instructions for filling out the application forms, plus a description of the various attachments that must be submitted with the application. A checklist of items needed for all project applications is found at the end of this chapter. Applicants are encouraged to call the grants staff about their prospective project before they apply and/or if questions arise in preparing an application beyond the information in these guidelines.

APPLICATION FORM

All items on the standard application form should be answered. The example in the Appendix involves the construction of a trail and support facilities. The budget information (example in the Appendix) refers to the calculation of the RTP grant.

COST BREAKDOWN

One copy of a separate detailed cost breakdown must be submitted with the project application. The cost breakdown should include the estimated value of acreage being acquired (if applicable) and all development for which reimbursement is being requested. The sample cost breakdown (in the Appendix) shows an example of the detail needed. The total project cost shown on the cost breakdown must match the figure listed on the project Application Form, Part I, line 10.

Cost estimates should be as accurate as possible. Your project could take as long as four years to complete, so your cost estimates should account for inflation. Where appropriate, unit costs should be included in the application.

CERTIFICATION OF FUNDS

In order for the Division of Outdoor Recreation to consider an application for grant approval, the applicant must have its 20% share of the project costs available for the project at the time the application is submitted. The type of documentation varies according to the source of funds as explained below.

1. Appropriations, Bond Issues, Other Federal Funds, and Force Account Contributions. One copy of a statement from the applicant must certify these funds will be available in the applicant's budget when the project will take place. This statement may simply be in letter form addressed to the Division of Outdoor Recreation and certified by the applicant's financial officer. If the agency is a not-for-profit organization,

the agency's fiscal officer must provide proof that the funds needed for the local share are available. The letter must state exactly how much is available and its source. At least 20% of the total project cost must be from non-federal sources. In the case of a bond issue, the applicant's attorney should provide a letter explaining the steps through which the bond issue has already progressed and a schedule for remaining action to take place. A bond issue must be completed up to the sale of the bonds prior to the grant application being submitted to the Division of Outdoor Recreation. If bonds will provide the local share of a project the bond issue should cover 100% of the project cost, rather than only the sponsor's 20%. This will enable the applicant to complete the project if federal funds are not obtained and to pay the project expenses, since grants are provided on a reimbursing basis.

2. Donations of Cash, Labor, Equipment and Materials. If the applicant is to receive gifts of cash, labor, equipment, or materials from a private individual, other governmental agency, private organization or business, a letter of intent to donate from each donor must accompany the application. The value of each gift must be estimated at the time of application. **Donations may not exceed the local agency's 20% share of the total project cost.**

a. Cash gifts are counted as the donor's stated amount.

b. For general unskilled labor donations, the applicant needs to provide a statement of the wage rate paid to the entry level municipal laborers. This rate is then applied to the pledged number of hours to be contributed. If donors of labor are employed in a skilled construction trade, the time spent doing their particular trade on the project may be valued at their employment wage rate. Either their employers or they (if self employed) need to verify their rate per hour on company letterhead. Labor contributed by another public agency would be valued at the rate of pay for the employees who work on the project.

c. Major construction equipment use rates may be established according to the *Rental Compilation Guide* referred to in Chapter 6. Equipment not in the *Rental Compilation Guide* may be valued by the lower of at least two quotes from commercial firms which rent similar equipment.

d. Materials may be valued by the lower of at least two quotes from commercial suppliers of similar items.

PROGRAM NARRATIVE

The Program Narrative submitted with the application should be written in narrative form and include the following elements.

1. Project Description. Indicate in detail the type of development proposed, the method of developing the facilities as described in Chapter 6, and the type of users expected (inner city, weekend, youth, senior citizens, etc.), giving as much specific information about the project as possible, including:

a. Needs assessment
b. Objective of the project
c. Results or benefits to the public
d. Why the project is the best alternative

2. Preagreement Costs. The only types of costs which may be incurred prior to federal approval of the grant are preparation of the grant application, archaeological investigations, and architectural and engineering services. If the applicant has signed a contract with an architectural and engineering firm or incurred other preliminary expenses, include the following information:

a. Name of firm performing the work and contact person
b. Address and telephone number of firm
c. Date and amount of the contract
d. Amount of expenses incurred or paid up to the date of application

NOTE: If the applicant signs a contract for architectural or engineering work after submitting the application, but prior to federal approval of the project, the information requested above should be submitted to the Division of Outdoor Recreation. Our recommendation is that these costs do not exceed 10-15% of the total project cost. These guidelines are established so that grant funds are used primarily for on-the-ground results.

3. Accessibility. Describe how the project site and development will be designed, constructed and maintained for people with disabilities, in conformance with the Architectural Barriers Act of 1968, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990. Site and building plans submitted with the project should illustrate accessibility. (A further description of the accessibility requirements can be found in Chapters 4 and 6.)

4. Property Control. When did the applicant purchase the property being developed in this project? If purchased after September 2, 1971, describe the provisions made for compliance with the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act, P.L. 91-646.

5. Federal Assistance. Describe other federal assistance which has been given, is pending or promised for any work within the boundaries of the park or recreational site affected by this request. Specifically, the following information is needed:

a. Federal Domestic Assistance Catalogue number
b. Type of assistance
c. Amount of funding
d. Relationship to this request

6. Life of Facility. The applicant must estimate the useful life of each facility being developed in the project. The estimate should be no less than 25 years and must meet the approval of the DNR. Project agreements for operation, maintenance and public use will be written for this period of time.

PUBLIC PARTICIPATION

With increased public awareness and concern for government directions and spending, it has become more apparent that there must be public input beginning with the initial planning of a project. Applicants must actively solicit opinions and suggestions, especially from adjacent land owners, for potential projects. The project sponsor must submit evidence to prove public input was actively sought as part of the project application. This must be in the form of a public meeting and may also include

a special questionnaire.

1. Public Meeting. A news article discussing the project and giving the date(s) of the special meeting(s) should be enclosed with a brief description of the meeting, including the number of persons attending, and their general comments, both positive and negative. If the project involves construction in the flood plain, this must be clearly stated in the news article and/or release.

2. Special Questionnaire. In this case, the methodology used to construct, distribute and collect the results, as well as final tabulation of the questionnaire responses should be included.

ENVIRONMENTAL ANALYSIS

The environmental effects of a project submitted for federal assistance are evaluated through the preparation of environmental data on the intended action. In 1969, the National Environmental Policy Act was passed to ensure a uniform national policy of evaluating the environmental impacts of federal and federally funded projects. The Act requires the preparation of an Environmental Impact Statement for federally funded projects which may result in significant adverse effects to the environment. All projects must have some basic environmental data to determine the impact of the proposed action. The information supplied in the Environmental Analysis and the DNR environmental review will determine whether a detailed Environmental Impact Statement (EIS) needs to be prepared. In most cases, trail projects have minimal environmental impact and usually receive a Categorical Exclusion (CE).

All project applications must be accompanied by an Enviromental Analysis which includes four sections:

1. The proposed action

2. Detailed description of all alternatives to the proposed action

3. Environmental impacts of the proposed action

4. Listing of agencies and persons consulted

It is very important the documentation and information provided is accurate and objective. Deceptive analysis of potential impacts could lead to the withdrawal of federal funds from the project, repayment of already reimbursed funds, or court action against the project sponsor. The following suggestions will assist in the preparation of the report:

1. Keep the environmental information free of project justification and personal bias. The project presumably is fully justified elsewhere in the documentation

2. Do not rely on generalities. The specific facts are essential. General statements and all allegations should be supported and quantified where possible.

3. Liberal use of maps, sketches, and related graphics to help explain the project area. Pictures (particularly aerial photographs) reduce lengthy narrative.

4. Writing style should be kept clear and concise. Adverse impacts should be addressed as fairly as

the beneficial impacts.

An outline for the Environmental Analysis is in the Appendix. The directions are broad and cover all types of projects and in most cases the answers to the various elements will be short. For most projects, the Environmental Analysis should be no longer than 3-5 pages.

LOCATION MAP

Each application must include a copy of a U.S.G.S. topographic map (quad map) which has the boundaries of the project site clearly marked. Indicate the map scale and name. Also, detailed driving directions to your project site from the nearest city or town should be provided.

SITE AND BUILDING PLANS

Applications should be accompanied by one copy of a preliminary/conceptual site design. These plans should be drawn to scale and should be of sufficient detail to show how the facility is, or will be, constructed to accommodate persons with disabilities.

Also, include on this plan or a separate plan, the exterior boundaries of the site, all permanent or temporary easements, utility rights-of-way, scenic preservation, etc. Enclose copies of any easement agreements.

PHOTOGRAPHS

Clear photos (preferrably digital) keyed to a site plan of the project area should be submitted. Be sure to include photos of all existing buildings, structures, recreation facilities and natural site features. A 360˚ view of the project should be easily attainable from the photos and map.

RECREATIONAL TRAILS PROGRAM (RTP)
2007

Project Evaluation Criteria

The project evaluation criteria is the primary tool used to evaluate projects and determine which projects will receive funding. Please place a checkmark next to the rating elements that your project satisfies. *Applicants are responsible for providing detailed responses and/or support information for each criterion.*

1) Acquire More Land and Waterways for Trail Use

Land acquisition must be at least 10% of the total project cost ***or*** a vital link (i.e. between two parks, a park and a school, etc.) in order to score points. On all types of acquisitions there must be language in the deed stating that the land must be reserved for public trail use.

A. Project acquires land by fee simple acquisition and develops a trail or trails on that land.

Fee simple (3 points) ____

OR

A project that acquires land by long-term easement and develops a trail or trails on it will receive up to two points.

Easement of 25-50 years (1 point) ____

Easement of >50 years (2 points) ____

(*A maximum of 3 points will be awarded in subcategory 1A; applicants <u>cannot</u> receive points for acquiring both fee simple and a lease/easement.*)

B. Project acquires a site for legal motorized riding trails.

Acquisition for motorized use (2 points) ____

C. A project that acquires a linear corridor (i.e., railroad corridors, river greenways, habitat corridors, utility corridors, abandoned road rights-of-way, levee) for trail use will receive two points if it is at least a half-mile in length.

Acquisition of linear corridors (2 points) ____

2) Development of Multi-Use Trail Facilities

A. A project that includes the development of multi-use trail facilities will receive up to five points. Multiple-use means the trail will be developed, maintained, and managed for at least two uses. Typical uses include, but are not limited to: pedestrian, equestrian, bicycle (road or mountain), in-line skating, off-highway vehicles, snowmobile, and cross-country skiing trails.

Multi-use trails (5 points) ____

B. Project supports water trails by developing a public access site for canoe/kayak trails and/or establishes a water trail.

Water trails (2 points) ____

C. Project develops unpaved trails for off-road vehicle uses, both motorized and nonmotorized.

Off–road trails (3 points) ____

D. A project that develops facilities to support trail users will receive up to three points. Eligible facilities include:

Parking lots/trailheads, restrooms, water fountains (2 points) ____

Bicycle racks, benches, interpretive signage (1 point) ____

3) Trail Development

A. Trail Length (actual number of miles being developed with this project):

0.5 – 1 mile	**(2 points)**	**____**
1.01– 1.5 miles	**(3 points)**	**____**
1.51 – 2.0 miles	**(4 points)**	**____**
> 2 miles	**(5 points)**	**____**

B. Project develops trails that connect to trail systems to form trail networks. (*Projects that are within a defined property will not receive points for connections within that same property. For purposes of this program, sidewalks and publicly maintained roads are not considered trails.)* The connection must be either an existing, separate and distinct trail or a proposed, separate and distinct trail that has received funding or is in the process of being built. Please submit documentation showing the proposed RTP project and the existing/proposed trail with which it will connect.

Connection within local network (1 point) ____
Connection to another network (1 point) ____
Connection to (or part of) state-identified priority visionary trail (1 point) ____

C. A project that develops trail facilities "close to home" will receive up to five points. Current and available census tract data and GIS applications will be employed to geo-locate trails and identify the number of people within seven and one-half miles of the proposed trail. A U.S.G.S. Topographic map with the trail layout drawn on it must be submitted in order to receive points.

An electronic GIS data file may be substituted for a topographic map- please contact the Division of Outdoor Recreation for details.

Population within 7.5 miles of trail:

100,000 +	**(5 points) ____**
20,000 - 99,999	**(4 points) ____**
10,000 - 19,999	**(3 points) ____**
5,000 - 9,999	**(2 points) ____**
1 - 4,999	**(1 points) ____**

D. A project that develops trail facilities in counties that are considered relatively deficient in trail opportunities will receive up to five points. These counties are identified on the basis of trail inventory data that reflects trail miles per 1000 people (open and under development). Refer to the enclosed map for information on your area.

Trail opportunities (up to 5 points) ____

4) Trail Information

All projects are required to develop signage that informs users about basic information like trail routes, appropriate trail use, safety, and ethics. In addition to this basic trail information, projects can also receive points for the following items:

A. Project develops trail maps/guides/brochures that relate specifically to this project and/or its relation to a larger trail system. Information could include: health, economic and social benefits; education; trail use; environmental ethics; and/or trail etiquette.

Trail maps and/or guides (2 points) ____

B. Project utilizes technology to provide trail information. For example, offering trail information on the World Wide Web (including maps and directions, marketing of trail opportunities/events, etc.). The trail information can be placed on an existing website or a proposed website. Projects that utilize other innovative uses of technology can also receive points in this category.

Information technology (2 points) ____

[Projects that incorporate trail information elements must include documentation in the cost breakdown and will be required to show proof of production (i.e., completed brochures, active web pages, etc.)]

5) "First Time" Awards

A. Project is located in a county that has **not** received an RTP grant to date. Projects must be located in counties other than those listed here in order to receive points. The following counties are ineligible for these points: Adams, Allen, Boone, Brown, Clark, Dearborn, Delaware, Elkhart, Franklin, Grant, Hamilton, Hancock, Hendricks, Howard, Jefferson, Knox, Kosciusko, Lake, LaPorte, Lawrence, Marion, Miami, Montgomery, Orange, Perry, Porter, Posey, Putnam, Scott, Sullivan, Steuben, St. Joseph, Tippecanoe, Wayne, Whitley.

New county (2 points) ____

B. Applicant has never received an RTP grant to date.

New project sponsor (1 point) ____

Summary of Points

1) Acquisition

A. Fee simple or easement_____**3 points possible** ____
B. Motorized_____**2 points possible** ____
C. Linear corridor_____**2 points possible** ____

2) Development of Multi-Use Trail Facilities

A. Multi-use trail facilities_____**5 points possible** ____
B. Water trails_____**2 points possible** ____
C. Off-road trails_____**3 points possible** ____
D. Support facilities for trail users
a. Parking/trailheads, restrooms, water fountains_____**2 points possible** ____
b. Bicycle racks, benches, interpretive signage_____**1 point possible** ____

3) Trail Development

A. Trail length_____**5 points possible** ____
B. Trail networks_____**3 points possible** ____
C. Population within 5 miles_____**5 points possible** ____
D. Trail opportunities_____**5 points possible** ____

4) Trail Information

A. Trail maps and/or guides_____ **2 points possible** ____
B. Information technology_____**2 points possible** ____

5) "First Time" Awards

A. New county_____**2 points possible**____
B. New project sponsor_____**1 point possible** ____

TOTAL POINTS POSSIBLE = 45 _____

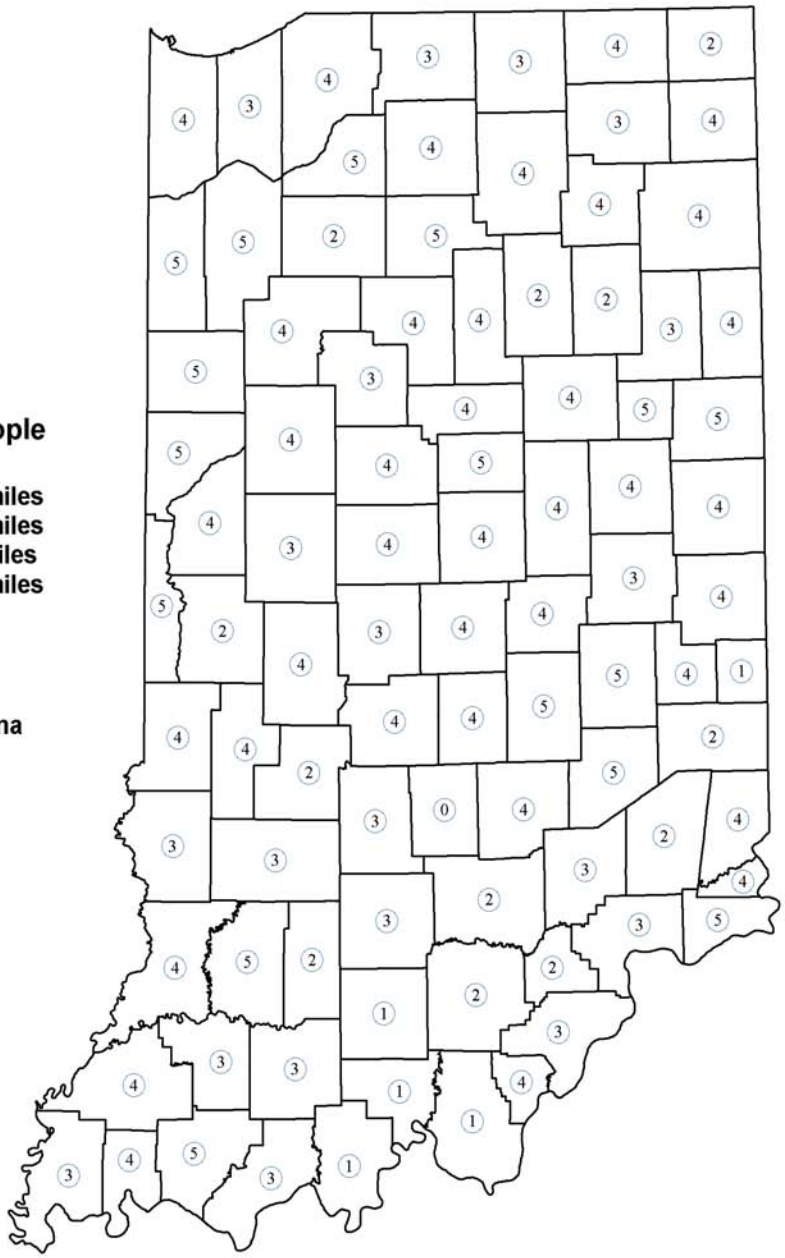
Recreational Trails Program Points for "Trail Opportunities" Criterion

Points Awarded:
Miles per 1,000 People

5 Points: 0 miles
4 Points: 0.016 - 0.254 miles
3 Points: 0.255 - 0.775 miles
2 Points: 0.776- 1.677 miles
1 Points: 1.678 - 3.982 miles
0 Points: > 3.983 miles

Miles per 1000 people determined using Indiana Trails Inventory data and 2005 population estimate from the US Census Bureau.

Point breakdown using Jenks Natural Breaks method.



Division of Outdoor Recreation GIS
Indiana Department of Natural Resources
January 2007

Recreational Trails Program Grant Application Checklist

The items listed below are to be submitted as part of the project application packet. Please indicate "y" for yes, "n" for no, or "N/A" for not applicable on each blank. Each "no" response must be justified via a written explanation. Original signatures are required on all documents requiring signatures unless otherwise noted.

PART A-ALL PROJECTS

___1. Application Form. One Application Form signed by the applicant. (Appendix p.24)

___2. Proof of Eligibility for Not-for-Profits. Documenation from the IRS verifying Not-for-Profit Status.

___3. Cost Breakdown. One detailed cost breakdown for the project showing the estimated cost of all development, by major work unit. (Sample in Appendix p. 15)

___4. Certification of Funds. A statement from the clerk-treasurer, county auditor, or fiscal agent certifying the availability and source of local funds and/or letters of intent for project donations.

___5. Program Narrative. One program narrative including:

- ___a. Detailed description of the project: its purpose, need, benefits and why it is the best alternative.
- ___b. List of all preagreement costs: name, address and telephone number of firm, contract date, contract amount and costs incurred to date of application.
- ___c. Description of how the project will comply with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 which prohibit discrimination on the basis of disability.
- ___d. Summary of land acquisition procedures for property bought after September 2, 1971.
- ___e. Describe any other federal funds used in connection with this project.
- ___f. Indicate that the facilities developed will be maintained for 25 years.
- ___g. Program income. List any fees that will be charged and how they will offset projected maintenance costs.

___6. Public Participation. The news advertisement and a description of the public meeting or a copy of the survey and survey results documenting the public participation for this project.

___7. Environmental review information.
___a. Environmental Analysis (Appendix p.16)
___b. Potential Hazardous Waste Site Assessment Form (Appendix p.38)

___8. U.S.G.S. topographic map (quad map). One topographic map clearly showing the boundaries of the project site. Include detailed driving directions to the site from the nearest city or town.

___9. Site Plan. One overall site plan showing property lines and drawn to scale.

___10. Photographs. Photos (preferrably digital) keyed to a site map showing the natural features, existing recreation facilities, buildings and stuctures on the site.

___11. Project Rating Criteria. <u>Address each criteria individually with complete responses and supporting documentation.</u>

___12. IDNR Assurance of Compliance. One signed form. (Appendix p.2)

___13. The U.S. Department of Transportation Assurance of Compliance. One signed form. (Appendix p.5)

___14. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions. One signed form. (Appendix p.32)

PART B-ACQUISITION PROCESS

___15. Estimate of value for each parcel(or full appraisal, if available)

___16. Option(s) to purchase, if applicable
___Statement of Just Compensation and Offer to Purchase (Appendix p.34), or
___Waiver of Just Compensation (Appendix p.36)

___17. Escrow agreement(s), if applicable

PART C-DEVELOPMENT PROCESS

___18. Easement(s). One copy each of existing easements which cross the property to be developed, such as utility lines, roads, access drives, etc.

___19. Deed(s). One copy of the property deed for each parcel of existing land to be developed, such as utility lines, roads, access drives, etc.

___20. Certification for Development Projects. One Acquisition Certification for Development Projects (if applicable). (Appendix p.23)

Chapter 3

PROJECT APPROVAL AND AMENDMENTS

PROJECT SEQUENCE

After receiving a state recommendation the following items must be submitted by the project sponsor for applications to obtain final approval by the Federal Highway Administration:

NOTE: Project acquisition and/or construction may NOT occur until final federal approval is obtained and a categorical exclusion is approved.

A. Categorical Exclusion (CE) - Categorical exclusions (CEs) are actions which, based on past experience with similar actions, do not involve significant environmental impacts. They are actions which do not involve significant impacts to planned growth or land use for the area; do not require the relocation of significant number of people, do not have a significant impact on any natural, cultural, recreational, historic, or other resource; do not involve significant air, noise, or water quality impacts, do not have significant impacts on travel patterns; or do not otherwise either individually or cumulatively, have any significant environmental impacts. Where adverse environmental impacts are likely to occur, the level of analysis should be sufficient to define the extent of impacts, identify appropriate mitigation measures, and address known and foreseeable public and agency concerns.

The categorical exclusion manual is available at http://www.in.gov/dot/div/pubs/ceprepmanual.htm. Acquisition and consturction may **not** start until an approved categorical exclusion is obtained.

B. Section 106 Historical Review - This review is required by the Federal Highway Administration as part of the CE process (http://www.fhwa.dot.gov/indiv/106proc.htm) and must be completed by a Qualified Professional. A description of the process and a list of Qualified Professionals is available on the Division of Historic Preservation and Archaeology website, http://www.in.gov/dnr/historic/106process.html.

NOTE: If the ground where the constuction will take place has not been previously disturbed an archaeological reconnaissance will be required. Archaeological studies are an eligible cost and may be submitted for reimbursement.

C. Appraisal Review (for acquisition projects only) - Before making a commitment to obtain land for a RTP project, an appraisal must be submitted to the Department of Natural Resources for approval.

The land is required to be appraised by a certified general appraiser with federal experience according to the Uniform Appraisal Standards for Federal Land Acquisitions (located on the web at www.usdoj.gov/enrd/lank-ack) . The Indiana Department of Natural Resources Division of Land Acquisition maintains a

list of qualified appraisers. Contact them at: (317) 232-4050.

There are two sets of criteria for completing an appraisal. The formal appraisal is required for land value of $10,000 or more. Where a parcel has a value of less than $6,000 and the expense of a formal appraisal would not benefit, a memorandum opinion of value by an appraiser will be acceptable.

The averaging of the final values of two or more appraisal reports to estimate the fair market value of a property is unacceptable and does not meet the requirements of the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act.

It is important that the appraisal answer all items completely. The report should be submitted in narrative form with separate sections for each major item, and have maps, pictures, and a full listing of comparable sales. The landowner must be given the opportunity to accompany the appraiser on his or her inspection of the property.

For the grant application, one copy of either the full appraisal or an appraiser's letter appraisal must be submitted. A letter appraisal is not a full appraisal. It is simply an appraiser's letter stating the value of the property, which establishes the land value for the project application. It is recommended that the same appraiser be hired to do the full appraisal later if a letter appraisal is submitted with the project application. Reimbursement will be based on the value approved in the full appraisal. For additional information on appraisal requirements contact the grant project officer who will connect you with the DNR Land Acquisition division for clarification. Additional land acquisition requirements are outlined in Chapter 5.

D. Construction Document Review - This is a review of the plans, specifications and contracts by the state project officer. The officer will review the project for compliance with federal regulations and specific compliance with the Architectural Barriers Act of 1968 and the Americans with Disabilities Act of 1990. Federal regulations regarding bidding procedures must be adhered to. The grants staff will check to insure that the Federal Contract Provisions have been included in all specifications for contracts. The project will be reviewed for compliance with the scope of the project as written in the Project Agreement. Sponsors needing additional information regarding this final review should contact their state project officer at the following address:

Indiana Department of Natural Resources
Division of Outdoor Recreation
402 W. Washington, Room W 271
Indianapolis, IN 46204-2782
Telephone: (317) 232-4070
Fax: (317) 233-4648

E. IDNR Water Permit Review - When a local sponsor proposes construction in the 100 year floodplain the agency must submit copies of the plans and specifications to the Division of Water for review. Such construction includes fills, buildings, dams, excavations, or bridges. More information may be obtained by writing to the following address:

Indiana Department of Natural Resources
Division of Water
402 W. Washington, Room W264
Indianapolis, IN 46204-2641
Telephone: (317) 232-4167

A fee is charged for this review.

A copy of the permit should be sent to the Division of Outdoor Recreation before any construction commences.

Flood Insurance - The Federal Flood Disaster Protection Act of 1973 (P.L. 93-234) requires purchase of flood insurance for certain types of facilities constructed in the flood plain. Although Indiana regulations prohibit the construction of items in the flood plain, these federal regulations apply to existing developments as well.

Communities affected by designated flood hazard areas as determined by the Department of Housing and Urban Development and later by the Federal Emergency Management Agency, will initially be required to join the flood hazard insurance program. Project sponsors may wish to contact their city/county executive or the Division of Water regarding the community's status in the flood insurance program and the eligibility of existing structures for insurance.

F. U.S. Army Corps Review - Section 404 of the Federal Water Pollution Control Act Amendments of 1972 gave the U.S. Army Corps of Engineers regulatory responsibility to maintain certain water quality in our nation's navigable waters. A 1975 court case mandated that the Corp's authority be expanded to regulate the disposal of dredged or fill material in all waters of the U.S. Thus, agencies proposing construction involving the discharge of dredged or fill material will be required to obtain a Corps of Engineers permit.

The Louisville U.S. Army COE
Regulatory Division
P.O. Box 59
Louisville, KY 40401-0059
Phone: 502-315-6733
FAX: 502-315-6677
http://www.lrl.usace.army.mil/

U. S. Army Corps of Engineers
South Bend Field Office
2422 Viridian Dr. Suite 101
South Bend, IN 46628
Phone: (574) 232-1952
FAX: (574) 232-3075

Along with the discharge of material which has been dredged or excavated from any waters of the United States, the following additional types of activities are regulated by this program: site development fills for recreational, industrial, commercial, residential, and other uses; causeways or road fills; dams and dikes; artificial islands; property protection and/or reclamation devices such as riprap, groins, seawalls, breakwaters, bulkheads and fills; beach nourishment; levees; sanitary land, and backfill required for the placement of structures such as sewage treatment facilities.

Applications for a permit under this program may take up to six months to be approved. Project spon-

sors are urged to contact the applicable district office of the Corps of Engineers well in advance of the application deadline, so that processing of the project is not delayed. Applications for permits should be submitted to one of following offices, depending on which river basin the project is in. If the applicant is uncertain of the river basin in which the project is located, the Division of Water should be contacted.

PROJECT APPROVAL

The applicant will be notified in writing when final project approval has been received from the Federal Highway Administration. With the letter of approval, the sponsor will be sent a Project Agreement/ Contract to be signed. The sponsor will be responsible for developing, and/or maintaining the project site as outlined in the Project Agreement and all documents incorporated into the agreement for the Recreational Trails Program.

PROJECT AGREEMENT

The Agreement will provide information required for project correspondence and will describe the responsibilities of the State and of the sponsoring agency. It will include:

1. The organization with whom the project agreement was made.

2. A project number given for identification purposes.

3. The project title to be used on all project correspondence.

4. The date when the Federal Highway Administration approved the project. Any work begun before approval, other than previously identified as preagreement costs, is ineligible.

5. The date of project expiration.

6. The project scope, which identifies the elements included in the project proposal as approved by the federal agency. Only those items will be eligible for reimbursement. If the project sponsor needs to make revisions, the state project officer should be contacted before those revisions are made. Federal/state approval must be granted before revised work can be started if reimbursement is to be requested.

7. The total cost of the project, the project sponsor's share and federal grant share. The federal share will not exceed 80% of the total project cost.

8. Specific elements incorporated into the project agreement, such as the Assurance of Compliance, project application, all application attachments, and other special agreement provisions outlined by the Federal Highway Administration, the Indiana Department of Natural Resources, or the Indiana Department of Administration.

9. The Project Agreement must be signed by the applicant's president or director and secretary, the director of the Department of Natural Resources, the head of the Department of Administration, the head of the State Budget Agency, and the Attorney General.

AFTER FEDERAL APPROVAL

After all of these requirements are met and the Federal Highway Administration has cleared the project, the Applicant can acquire property, advertise for bid, sign contracts, and start construction. Donations of materials, equipment and labor for the project may be accepted after the grant is approved. Cash may be received both before and after federal approval. Refer to the acquisition guidelines in Chapter 5 and the construction guidelines in Chapter 6 for further information on how to proceed.

Progress billings may be submitted after the project is federally approved. Chapter 7 explains billing procedures and the items needed before federal assistance is reimbursed to the applicant.

During the project period, the DNR will make periodic inspections to ensure the development is in accord with the project application. The project sponsor is usually notified prior to these inspections and invited to accompany the inspecting officers. A final inspection is scheduled before final reimbursement and close-out of the project is done.

If changes occur or problems are encountered during the project period, the Division of Outdoor Recreation should be contacted immediately. As indicated previously, changes may result in a need to amend the project in order to ensure full federal assistance for the project.

AMENDMENTS

During the project period, various situations may result in changes or deviations from the Project Agreement. An amendment is necessary to add to, or alter the signed agreement. Changes that may necessitate an amendment are increases or decreases in the grant amount, project scope changes, or an extension of the project period.

Changes In Project Scope

Only those items approved for the project are eligible for federal assistance. Similarly, facilities must be constructed in the same location as designated on the site plan and according to the design plans submitted with the application. Due to unforeseen changes in project costs or revisions in the plans for the facility, certain items may have to be added or deleted from the project after it is approved. These changes may require submission to the Federal Government for approval. In the case of adding an item to the project, construction on that item cannot begin until the amendment is approved. The amount of federal assistance specified on the Project Agreement is the maximum amount reserved for that particular project. Costs over this amount have to be paid by the applicant.

All changes in project scope should be in accordance with the intent of the original application, and must be justifiable. The need for the change must be documented by a letter to the Division of Outdoor Recreation, accompanied by revised cost estimates, construction plans and maps.

Project Period Extensions

All acquisition and development must take place within the project period, which is identified in the

Project Agreement. The Agreement is sent to the project sponsor after the project has received Federal approval. For most projects, the target date for project completion will be based on a two to four year project period. The project sponsor is encouraged to complete the project as soon as possible. Inflation can add a 5% cost increase each year.

If the project cannot be completed during the period identified on the Agreement, a request may be submitted for a time extension. The request must justify why the project cannot be completed before the expiration date. This justification should include a time schedule for completing the remaining items. Work performed after the project has expired will not be eligible for federal assistance. Final payments for work done during the project period can be made after the project has expired. These payments should specify the work had been completed before the project expired.

Submission of an Amendment Request

The sponsoring agency initiates the amendment by submitting a request for the changes to the Division of Outdoor Recreation. This request should include all project revisions desired, including cost estimates, maps or design plans, and justification of the need for the changes. It is recommended a project staff member of the Division of Outdoor Recreation be contacted prior to the submission of the amendment request. The staff member will be able to provide advice on the feasibility of an amendment approval.

An amendment for a change in project scope can be requested anytime prior to the construction of the added item or acquisition of the added tract. An amendment for an extension of time should be submitted to the Division of Outdoor Recreation forty-five days before the project is scheduled to expire.

It is essential that amendment requests be kept to a minimum. Amendments are used to cover items that could not be anticipated in the original project. Major deviations from the original project will not be accepted. It is the responsibility of the project sponsor to thoroughly determine the type of project prior to submission and, upon approval, carry through with that project.

PROJECT COMPLETION

Upon notification by the project sponsor that a project has been completed, the Division of Outdoor Recreation staff will conduct a final inspection. The Federal agency may also make a final inspection, but this inspection may not take place until several months or years later. If the project has been completed in accord with the Project Agreement, the final billing can be processed. Certain additional documentation will be needed for the final billing as indicated in Chapters 7 and 8.

In order for a project to be considered completed and ready for final billing, it should be submitted within sixty days of the completion of the project or expiration date, whichever comes first. This procedure will enable both the applicant and the Division of Outdoor Recreation to complete the final project data and terminate administrative procedures as soon as possible.

The Applicant's long-term obligations regarding project sites are explained in Chapter 8.

PROJECT SEQUENCE CHECKLIST

The following items must be submitted by the project sponsors for applications to be approved by the Federal Highway Administration.

___1. Categorical Exclusion. One copy of the categorical exclusion from the Indiana Department of Transportation obtained by the project officer.

___2. Section 106 Historical Review (appendix p.40)

___3. Appraisal Review (acquisition projects only)

___4. Detailed architectural/engineering plans for all development, with particular attention to ADA guidelines submitted and reviewed by the Division of Outdoor Recreation.

___5. Water Permit. One copy of the permit from the Division of Water for construction in the floodway, floodplain, or wetland, where applicable.

___6. U.S. Army Corps Permit. One copy of the permit from the U.S. Army Corps of Engineers for construction in the floodway, floodplain, or wetland, where applicable.

___7. Project Agreement. One original signed copy.

Acquisition and construction may commence when all of the above requirements are met.

Indiana Department of Natural Resources
Division of Outdoor Recreation
402 West Washington Street, W271
Indianapolis, IN 46204

Phone: (317) 232-4070
Fax: (317) 233-4648

www.in.gov/dnr/outdoor

CHECKLIST FOR AMENDMENTS

Listed below are specific items to be included in submitting amendment requests.

For changes in project scope:

___ 1. One (1) copy of a revised cost breakdown showing the cost of items completed and the estimated cost of work yet to be done, including the items to be added to the project.

___ 2. For buildings being revised or added to the project, one (1) copy of the floor plans and elevation diagrams.

___ 3. One (1) copy of a revised site plan, showing the locations of the facilities to be added or a plat map showing the location of the additional land to be purchased.

___ 4. One (1) copy of a justification for the revisions, which may be included in the transmittal letter.

For project period extensions:

___ 1. One (1) copy of a time schedule showing the dates the remaining project items are to be completed.

___ 2. One (1) copy of a justification for the project period extension, which may be included in the trasmittal letter.

Chapter 4

FEDERAL AND STATE COMPLIANCE

ASSURANCE OF COMPLIANCE

The Assurance of Compliance portion of this chapter is divided into two major parts. Part I—Definitions, gives the definitions of the significant terms used throughout the assurances. Part II—Assurances, is divided into sections based on the nature of the compliance requirements. The assurances are in the order that they appear on the Assurance of Compliance form. These assurances are related to the acquisition, development, operation, and maintenance of a property for public use. The assurances incorporate the responsibilities for nondiscriminatory practices, state and federal regulations for procurement and construction, project administration, record maintenance, eligible costs, and many other requirements.

The assurances are outlined here to give the sponsor a better working knowledge of the requirements of the program. These “Assurances” are an integral part of the Project Agreement and must be followed as outlined. Questions concerning compliance with the “Assurances” should be directed to the state project officer.

PART I - DEFINITIONS

1. The term “Applicant” as used herein means the organization which submitted the application for federal assistance and which is a party to the project agreement, and to whom federal funds will be transferred pursuant to this agreement. Wherever a term, condition, obligation, or requirement refers to the Applicant, such term, condition, obligation, or requirement shall also apply to its assignees and successors or local units of government responsible for the establishment of the Applicant.

2. The term “Federal agency” as used herein means the Federal Highway Administration of the United States Department of Transportation.

3. The term “State agency” as used herein means the Department of Natural Resources of the State of Indiana. The Division of Outdoor Recreation is part of the Indiana Department of Natural Resources.

4. The term “Guidelines” as used herein means the Guidelines for the "Recreational Trails Program".

5. The term “application” as used herein means the application for federal assistance from the RTP and all associated documents as described in the guidelines.

6. The term “agreement” as used herein means the project agreement between the Applicant and State agency.

7. The term “project” as used herein means a single project, a project element or project stage which is subject to the project agreement.

PART II - ASSURANCES

1. Authority and Application

The Applicant is legally established under current Indiana law and possesses the authority to apply for the grant.

The Applicant has adopted or passed a resolution, motion or similar action, authorizing the filing of the application, including all understandings and assurances contained herein, and directing and authorizing the person identified as the official representative of the Applicant to act in connection with the application and to provide such additional information as may be required. The Application for Federal Assistance and associated documents are by this reference made a part of the agreement.

The Applicant has the ability to and will operate and maintain the property described in the project application and will make the site and or facilities available to the general public during reasonable hours.

The Applicant has sufficient funds to finance the non-federal share of the costs for the project. Upon project completion, the Applicant will make sufficient funds available to assure effective operation and maintenance of the facilities developed in the project to be consistent with the Safe, Accountable, Flexible, Efficient Transportation Equity Act (SAFETEA-LU), the rules and regulations of the Federal Highway Administration and the Indiana Department of Natural Resources, and other federal, state and local regulations for such facilities.

The Applicant agrees to comply with all requirements imposed by the SAFETEA-LU, the Federal Highway Administration and the Indiana Department of Natural Resources concerning special requirements of law, program requirements, and other administrative requirements and to impose those responsibilities on any designated person(s) to carry out the terms of the project agreement on behalf of the Applicant.

2. Property Control

The Applicant ensures that the project site is currently under the control and tenure of the State or the Applicant and that the Applicant has the ability to and will operate and maintain the site as prescribed by applicable federal, state and local standards regarding such facilities. The Applicant agrees that it will not dispose of or otherwise encumber its title or other interest in the site and facilities without the prior approval of the Indiana Department of Natural Resources and the Federal Highway Administration during the period of federal interest or while the Federal Government holds bonds, whichever is longer.

The Applicant will notify the Department of Natural Resources, in advance, of any proposals to use the property for purposes other than those described in the project application and agreement.

If the project includes renovation or construction of facilities with federal assistance, the facilities must remain available for public use for at least 25 years.

If the project includes acquisition of land with federal assistance the land purchased must remain in public trail use for perpetuity.

When the site is owned by the State, the Applicant will obtain an agreement, lease or easement from the State authorizing the Agency to develop, operate, and maintain the site.

3. Fees

Except for general park entry fees, any fees charged for the use of a site developed with federal assistance, may only be used for the operation and maintenance of the funded facilities. Any additional fees or fee charges will need DNR approval.

4. Project Execution

The Applicant agrees the project will commence within a reasonable time after receipt of notification that funds have been approved, and will be completed with reasonable diligence within the project agreement period. The project period shall begin with the date of approval of the project agreement or the effective date of a waiver and shall terminate at the end of the stated or amended project period unless the project is completed or terminated sooner, in which event the project period shall end on the date of completion or termination.

The Applicant agrees to submit to the State for prior approval any changes which may alter the cost of the project, use of the space, the functional layout, completion period, or project scope.

The Applicant shall furnish progress reports and other such information as the State or Federal agencies may require.

The Applicant shall bring the project to a point of usefulness, agreed upon by the Federal Highway Administration, the Indiana Department of Natural Resources and the Applicant in the event the project covered by the project agreement cannot be completed in accordance with the plans and specifications approved for the project.

The Applicant shall use any funds received from the United States under the terms of this agreement solely for the project or project stage described in the agreement.

5. Construction Contracts

The Applicant will not enter into a contract for the project until grant requirements concerning construction contracts have been met.

The Applicant will provide and maintain competent and adequate architectural/engineering supervision and inspection at the construction site to ensure that the completed work conforms with the approved plans and specifications and is safe for public use. The Applicant shall secure completion of the work in accordance with the approved construction plans and specifications, and shall secure compliance with all applicable federal, state and local laws and regulations.

The Applicant will ensure that contractors will comply with nondiscrimination and those laws related to

disabled accommodations, and will be responsible for conducting inspections to ensure compliance with these specifications by the contractor.

The Applicant will comply with all applicable federal and state laws concerning public works and procurement. When federal, state, or local laws differ, in relationship to the project, the more strict regulation shall be used unless otherwise authorized by the State or Federal agency.

Office of Management & Budget Circular A-102

The Applicant will comply with the Competitive Bidding and Construction Contract Requirements as outlined in the Office of Management and Budget (OMB) Circular A-102, Attachment O which includes compliance with the following:

(1) Contracts for construction in which state bidding regulations require projects sponsors to let bids shall be awarded through a process of competitive bidding involving formal advertising, with adequate purchase description, sealed bids, and public opening. Copies of all advertisements, bids, and a copy of the contract shall be retained for inspection by the State.

(2) The Applicant shall inform all bidders on contracts for construction that federal funds are being used to assist in construction.

(3) Written change orders shall be issued for all necessary changes in the facility being constructed under contracts. Such change orders shall be made a part of the project file and should be kept available for audit.

Contract Work Hours and Safety Standards Act.

The Applicant will comply with the provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by the Department of Labor Regulations (29 CFR, Part 5). Under Section 103, of the Act, each contractor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided the worker is compensated at a rate of not less than 1-1/2 times the base rate of pay for all hours worked in excess of 40 hours in the work week. (Revised under the Department of Defense Authorization Act of 1986, P.L. No. 99-145).

Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his or her health and safety as determined under construction, safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Copeland “Anti-Kickback” Act

The Applicant shall include in its contracts for construction a provision for compliance with the Copeland “Anti-Kickback” Act (18 U.S.C. 874) as supplemented by Department of Labor Regulations (29 CFR, Part 3).

This Act states that each contractor or subcontractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The Agency must report all suspected or reported violations to the State and Federal agencies.

Stevens Amendment to the Department of Defense, Appropriations Act

"When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total cost of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program."

Certification Regarding Debarment & Suspension

The Applicant shall include in its contracts for construction of projects, a provision for compliance with Executive Order 12549, Debarment and Suspension, 49 CFR Part 12, Section 12.510:

(1)The prospective lower tier participant certifies, by submission of this proposal that neither it nor its principals is currently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2)Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participants shall attach an explanation to this proposal.

Equal Employment Opportunity (EEO)

The Applicant shall ensure that contractors will comply with Executive Order 11246 (Equal Employment Opportunity), as amended by Executive Order 11375 regarding equal opportunity for all persons, without regard to race, color, religion, sex, or national origin, employed or seeking employment with contractors performing under federally assisted construction contracts. In addition, the following specific requirements shall be carried out by the Board:

The Applicant shall include the following in solicitation for offers and bids on federally assisted construction contracts:

(a) "Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity" including goals which are to be inserted by contracting officer or applicant.

(b) "Standard Federal Equal Employment Opportunity Construction Contract Specification".

The Applicant shall include the following in construction contracts:

(a) Equal Opportunity Clause.

(b) "Standard Federal Equal Employment Opportunity Construction Contract Specification".

(c) A Non-Segregated Facilities Certification signed by the prime contractor and subcontractor.

The Applicant shall provide notice of contract awards subject to these provisions to the Director of the Office of Federal Contract Compliance Programs (OFCCP) within 10 days after the award (Notice includes name, address and telephone number of contractor, employer identification number, dollar amount of contract, estimated starting and completion dates, contract number and geographical area in which the contract is to be performed).

The Applicant shall cooperate with the Director of FHWA and the Director of OFCCP in the implementation of the program.

The Applicant shall ensure that EEO posters are displayed on Federally assisted construction sites.

The Applicant shall ensure that contractors engaged in Federally assisted construction contracts are providing data and reports to the appropriate OFCCP regional office as required or requested.

The Applicant shall ensure that the provisions of the Equal Opportunity Clause are followed for construction contracts involving force account labor.

The Applicant shall carry out sanctions and penalties imposed upon the federally assisted construction contractor or subcontractor by the Secretary of Labor pursuant to Executive Order 11246, as amended, and refrain from entering into any contract subject to this Order, or extension or other modification of such a contract with a contractor debarred from Government contracts under Executive Order 11246, as amended.

The Applicant shall incorporate, or cause to be incorporated, into all construction contracts the Equal Opportunity Provisions included in the Federal Contract Provisions of the Appendix of the *Recreational Trails Program Guidelines.*

The Applicant shall (1) comply with the Equal Employment Opportunity provisions in construction work carried out by itself, (2) assist and cooperate actively with the Secretary of Transportation and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the Federal Contract Provisions and with the rules, regulations, and relevant orders of the Secretary of Labor, (3) obtain and furnish to the Secretary of Transportation and to the Secretary of Labor such information as they may require for the supervision of such compliance, (4) enforce the obligation of contractors and subcontractors under such provisions, rules, regulations, and orders, (5) carry out sanctions and penalties for violation of such obligations imposed upon contractors and subcontractors by the Secretary of Labor or the Secretary of Transportation, and (6) refrain from entering into any contract with a contractor debarred from Government contacts under Part II, Subpart D, of Executive Order No. 11246, as amended. In addition, the Applicant agrees that if it fails or refuses to comply with these undertakings, the Federal Agency may take any or all of the following actions: cancel, terminate, or suspend in whole or in part this grant; refrain from extending any further assistance to the applicant under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice of appropriate legal proceedings.

6. Nondiscrimination

The Applicant will comply with the nondiscrimination obligations imposed by federal, state and local regulations and ensures that all sites, facilities, activities and employment practices in its jurisdiction, are available to all persons on an equal opportunity basis, regardless of the individual's race, color, national origin, sex, age or handicap. The major acts concerning nondiscriminatory practices (and compliance guidelines) are described below.

Age Discrimination Act of 1975

The Applicant will comply with the Age Discrimination Act of 1975 (42 U.S.C. 6101), as amended (Title III of P.L. 94-135) which prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance.

The U.S. Department of the Transportation requires:

> 1) "No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."
>
> 2) A recipient of federal assistance is permitted to take an action, otherwise prohibited, if the action reasonably takes into account age as a factor necessary to the normal operation or achievement of a statutory objective of a program or activity.

The conditions outlined under Title VI of the Civil Rights Act would apply to this program as well.

Title VI of the Civil Rights Act

The Applicant will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-35-2) and all requirements imposed by or pursuant to the Department of the Interior Regulation (49 CFR 17) issued pursuant to that Title.

Title VI states:

> "No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under a program or activity receiving federal financial assistance."

According to the federal interpretation of the proceeding statement, as soon as a project sponsor receives federal funds through this program or another federal program, the entire sponsor's system under the Agency's jurisdiction becomes subject to the obligations imposed by Title VI of the Act. This Act requires that agencies take affirmative measures to ensure all facilities and programs within their control are open to the general public regardless of race, color, or national origin. Discrimination is not permitted. Slightly higher user fees may be charged to residents living outside the jurisdiction of the sponsoring park board, city, or Applicant, but such fees may be no more than double the fee for residents. The Applicant shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) prohibiting employment discrimination where (1) the primary purpose of a grant is to provide employment or (2)

discriminatory employment practices will result in unequal treatment of persons who are or should benefit from the grant-aided activity.

The following is a summary of the conditions for Title VI. The detailed federal guidelines are in the Appendix, and project sponsors must carefully study and follow the guidelines to ensure compliance with all federal regulations.

(1) Prohibited Discriminatory Practices

(a) Any difference in quality, quantity or the manner in which the benefit is provided.

(b) Segregation or separate treatment in any part of the program.

(c) Restriction in the enjoyment of any advantages, privileges or other benefits provided to others.

(d) Different standards or requirements for participation.

(e) Methods of administration which would defeat or substantially impair the accomplishment of the program objectives.

(f) Discrimination in any activity or program conducted in a facility built in whole or part with federal funds.

(g) Discrimination in any employment resulting from a program established primarily to provide employment or in any employment in a program where employment tends to affect the service and benefit rendered.

(h) Restriction in the method and/or means used to advise persons of benefits and service provided to others.

(2) Complaints. Any person(s) who believe discrimination because of race, color, or national origin exists in a federally-assisted program have the right to make a complaint to the officials responsible for that program.

(a) Prompt investigations will be made of complaints received.

(b) If discrimination is found, negotiation and persuasion will first be used in an effort to eliminate the prohibited practices.

(c) Should these efforts fail, federal assistance may be terminated or discontinued after a fair hearing.

(d) Other means authorized by law, including court action, may also be used to enforce nondiscrimination.

No agency or other person may intimidate, threaten, coerce, or discriminate against any individual because he or she has made a complaint, testified or assisted in a Title VI investigation, proceeding or

hearing. The Applicant must notify the Department of Transportation's Office for Equal Opportunity or the Federal agency within 5 days upon receipt of a complaint.

(3) Compliance Reports. Records and other information designed to show the intent of compliance with Title VI agreements must be maintained by agencies, park departments and local units of government and reports sent to the Department of Transportation and Division of Outdoor Recreation as requested. Agencies are also required to inform participants and other interested persons of the provisions of Title VI regulations and of their applicability to the federal assistance program.

(4) Reviews. The Department of Transportation and DNR may conduct reviews prior to awarding grants, during visits to the project site, and after the project has been finished. Reports, publications, and other records may be reviewed in the course of these compliance reviews.

(5) Compliance Under Title VI. Title VI regulations provide the necessary framework for protecting the rights guaranteed to the agencies and to the public under federally-assisted programs. Compliance will first be sought by affirmative and voluntary means whenever possible. But, in addition, the regulations allow the Federal Government to make pre-grant, field and follow-up reviews; compliant investigations; informal adjustments; and when necessary, more formal proceedings in the court system.

(6) Affirmative Measures. The following, although not all-inclusive, are considered as basic affirmative measures necessary to bring recipients of Federal assistance and their operations into compliance with Title VI:

(a) Signed assurance of Title VI compliance, Applicants for Federal assistance should be aware of the provisions of the 1964 Civil Rights Laws and are required to ensure compliance prior to receiving Federal assistance.

(b) Submittal of pre-award information when requested.

(c) Minority and female representation on appointed park, advisory, planning, and review boards and committees. Exclusion of minorities and women could be considered discriminatory. Inclusion guarantees a voice in the planning and development of projects and programs.

(d) Equal emphasis of program administration and program distribution (recreational, cultural, etc.) and maintenance quality of facilities whether they are located in majority or in minority areas. Development and implementation of an affirmative action plan to remedy past and present deficiencies in the employment, training, and promotion potential of minorities and women.

(e) A system for reporting and processing alleged complaints of discrimination. Placement of equal opportunity statements on posters, brochures, and other informational material inviting all persons regardless of race, color, or national origin to use programs and facilities.

(f) Use of pictures of minorities and women, and integrated use of facilities, in brochures, pamphlets, and other informational material. Exclusion could be considered discriminatory and inclusion provides tangible evidence that all are welcome and encouraged to use programs and facilities which receive federal assistance.

(g) Printed information about programs, sites, and facilities in non-English languages where there are appreciable numbers of people who do not speak or read English.

(h) Equal compensation and assistance for those displaced in the course of a land acquisition program whether they are majority or minority land owners.

Several practical steps should be considered as a means of implementing the above mentioned affirmative measures. Racial/ethnic and sex data should be collected by the recipient to determine, if in fact, all persons are benefiting from the federally-assisted program. Identification of persons of different races should be done on a visual basis only. Programs and employment opportunities should be advertised and made available to minority groups and women. Consideration should be given to minority and female enterprises as a means of distributing the benefits of federally-assisted programs. Programs of an historical nature should take into consideration the contributions made by minority groups and women.

The posters in the Appendix (A-14), or ones similar to them, are to be posted on project sites.

The following paragraph is an example of a Title VI Notification Clause. The Office for Equal Opportunity requires that all program materials, brochures, program or course applications, sign up sheets, contracts signed by private organizations for park use, rental contracts for concession stands and or all other lease or contracts, contain such a clause. While all the information contained in this paragraph must be included, the agency may rewrite this clause to conform to its individual style.

Model Title VI Notification Clause

This program receives federal funds. Under Title VI of the 1964 Civil Rights Act, the U.S. Department of the Interior prohibits discrimination on the basis of race, color, national origin, age or disability. If you believe that you have been discriminated against in any program, activity or facility, or you desire further information regarding Title VI, please write to:

The Office Of Equal Opportunity
U.S. Department of Transportation
Office of the Secretary
Washington, D.C. 20240

Equal Employment Opportunity

The Applicant will comply with Executive Order 11246, Equal Employment Opportunity, as amended by E.O. 11375, which prohibits discrimination by government contractors on the basis of race, color, religion, sex, or national origin. More details concerning compliance with this Order are outlined in this chapter under #5 and in the “Federal Contract Provisions” in the Appendix.

Architectural Barriers Act of 1968

The Applicant will comply with the Architectural Barriers Act of 1968 (P.L. 90-480), which requires facilities acquired or developed with federal assistance be designed so their facilities are accessible to

persons with disabilities. All projects must be constructed to provide for this physical accessibility in accord with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," Number A117.1-1961, as modified (41 CFR 101-17.703).

Section 504 of the Rehabilitation Act of 1973

The Applicant will comply with Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112), as amended (P.L. 93-516 and P.L. 95-602) which states:

> ". . .no qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives or benefits from federal financial assistance."

This act emphasizes accessibility for persons with disabilities to programs, activities and services. It also applies to employment practices of the recipient agency and some related contractual and user groups' services and practices. The federal guidelines for complying with Section 504 are included in the Appendix. These should be read completely so all of the Applicant's responsibilities for compliance are understood. The following is a summary of the Section 504 guidelines:

(1) Persons Covered.

"Handicapped person" means anyone who has a physical or mental impairment that substantially limits one or more major life activities, "Major life activities" are defined as functions such as caring for one's self, performing manual tasks, walking, seeing, speaking, hearing, breathing and learning. Drug and alcohol abusers are also covered by Section 504, except when current use of drugs or alcohol prevents them from performing the duties of the job in question or poses an immediate threat to public safety or property.

(2) Program Accessibility.

All programs and activities provided by the Applicant must be accessible to qualified disabled persons on a "system-wide" basis, even those not directly receiving federal aid. A "qualified person with disabilities" is one who meets the essential eligibility requirements for program participation or receipt of services. This means persons with disabilities must be able to participate in each type of program or activity at a minimum of one location within the Applicant's jurisdiction. For example, if a park department offers guitar classes at five locations in a city, one of those classes must be accessible to persons with disabilities.

Accessibility to activities may be provided by several methods, including redesigning equipment, structural changes to a facility, moving programs to other accessible locations, providing aids for the disabled, and home visits. Thus, program accessibility does not mean every facility has to be made structurally accessible, and may or may not require physical modification to facilities.

For applicants which employ fewer than fifteen full or part-time employees, if the situation arises after consultation with a person with a disability who wants recreation services, that no alternative exists to provide access other than structural adaptations, the person may be referred to other providers of services whose facilities are accessible. Such referrals may be made, however, only with advance approval by the

Director of the Department of Transportation's Office for Equal Opportunity.

(3) Employment Practices.

The organization must ensure that its employment practices are nondiscriminatory. Written nondiscrimination policies should include the handicapped. Discrimination against "qualified" individuals is prohibited. A "qualified handicapped person" is one who, with "reasonable accommodations," can perform the essential functions of the job in question. Reasonable accommodation must be provided to employees and applicants with disabilities, unless it creates "undue hardship".

Accommodations may include facility access, modified work schedules, job restructuring and permitting work to be done at home or other locations. All applicants and employees must be informed that discrimination on the basis of disability is prohibited. The applicant needs to take steps to communicate effectively with the visually and hearing impaired, as well as the mentally retarded and learning disabled. Employees also need to be notified of when, where and how to file employment complaints alleging handicap discrimination. The applicant must adopt grievance procedures for prompt and equitable resolution of complaints. A wide range of employment practices are covered by Section 504. These are detailed in the Appendix.

(4) Public Notification.

The applicant is to notify its employees and the public of the availability and accessibility of its programs and services, its policy of nondiscrimination, and procedures for filing complaints. This can be through its program publications, posters, the media and recruitment materials. Appropriate steps must be taken to communicate with persons with impaired vision, hearing, and learning disabilities and who are mentally retarded.

The public must be informed that the applicant receives federal financial assistance from the Department of Transportation, and thus federal law prohibits discrimination on the basis of handicap in the applicant's programs and activities. The explanation must also state if any individual feels he or she has been discriminated against or desires further information regarding the Department of Transportation's nondiscrimination requirements, the person may write to:

Director
Office for Equal Opportunity
U.S. Dept. of Transportation
Washington, D.C. 20240

(5) Extension of Compliance to Others.

If the applicant gives, leases, or transfers real property, it must put a covenant in the agreement transferring the property that discrimination on the basis of handicap will not occur. This obligates the recipient or the transferee, for the period during which the real property is used for the purpose for which it was extended, to operate in a non-discriminatory manner.

Where the applicant has a contract, subcontract or agreement with concessionaires, organizations such as health maintenance organizations, insurance agencies, training or employment agencies, or labor

unions, nondiscrimination clauses must be included in the contractual documents and ensure that the organizations do not discriminate on the basis of handicap in services to employees and job applicants.

(6) Administrative Requirements.

Applicants employing fifteen or more full or part-time employees must designate one person as being a Section 504 Coordinator, responsible for compliance with the Act. Such agencies must also adopt grievance procedures for the prompt and equitable resolution of handicapped discrimination complaints.

Applicants should keep on file sufficient documentation to demonstrate compliance with Section 504 for federal review purposes. The Department of Transportation Office for Equal Opportunity will periodically perform on-site and desk audit periodic reviews of local grant recipients. The Division of Outdoor Recreation staff may also request evidence of compliance for review purposes. Agencies are expected to resolve any noncompliance voluntarily; however, available federal sanctions include withholding or terminating federal funds and judicial enforcements.

To aid local agencies in compliance with Section 504, a model poster which covers Title VI and Section 504 public notification is included in the Appendix.

7. Employment.

The Applicant may comply with the following laws and standards as they relate to employment practices.

A. Minority Business Enterprise Development

The Applicant shall comply with Executive Order 12432, Minority Business Enterprise Development, as follows.

It is the national policy to place a fair share of purchases with minority business firms. The Department of Transportation is strongly committed to the objectives of this policy and encourages all recipients of its grants and cooperative agreements to take affirmative steps to ensure such fairness.

In particular recipients should:

(1) Place minority business firms on bidder's mailing lists.

(2) Solicit these firms whenever they are potential sources of supplies, equipment, construction, or services

(3) Where feasible, divide total requirements into smaller needs, and set delivery schedules that will encourage participation by these firms.

(4) Use the assistance of the Minority Business Development Agency of the Department of Commerce, the Small Business Administration, the Office of Small and Disadvantaged Business Utilization, Department of Transportation (DOT), the Business Utilization and Development Specialists who reside in each DOT bureau and office, and similar State and local offices where they exist.

B. Fair Labor Standards Act (P.L. 95-191,91 Stat. 1245)

The applicant will comply with the provisions of the Federal Fair Labor Standards Act as they apply to the minimum wage and maximum hours provisions for employees of state and local governments.

C. Conflict of Interests

The Applicant will establish safeguards to prohibit employees from using their positions for a purpose which is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business or other ties.

The Applicant will ensure no member or employee of the Agency who is authorized in an official capacity to negotiate, make, accept or approve, or to take part in such decisions regarding a contract or subcontract in connection with this project shall have any financial or other personal interest in any such contract or subcontract.

The Applicant will ensure no person performing services for the Agency, in connection with this project shall have a financial or other personal interest other than employment or retention by the Applicant, State, or Federal Government, in any contract or subcontract in connection with this project. No officer or employee of such person retained by the Applicant, State or Federal Government shall have any financial or other personal interest in any real property acquired for this project unless such interest is openly disclosed upon the public records of the State, and such officer, employee or person has not participated in the acquisition for or on behalf of the Applicant.

No member of or delegate to Congress shall be admitted to any share or part of this agreement, or to any benefit to arise hereupon, unless such benefit shall be in the form of an agreement made with a corporation for its general benefit.

The Applicant, State and Federal agencies shall be responsible for enforcing the above conflict of interest provisions.

D. Hatch Act

The Applicant will comply with the provisions of the Hatch Act (5 U.S.C. 1501-1508), as amended, which provides that no officer or employee of the Applicant or State whose principal employment is in connection with any activity which is financed in whole or in part pursuant to this agreement shall take part in any of the political activity prescribed in the Hatch Political Activity Act (5 U.S.C. Sec. 118k, 1964).

The covered officer or employee may not use his official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office.

The covered officer or employee may not directly or indirectly coerce, attempt to coerce, command, or advise a state or local officer or employee to pay, lend or contribute anything of value to a party committee, organization, agency, or person for political purposes.

The covered officer or employee may not be a candidate for elective office in a partisan election.

8. Administrative Regulations

The Applicant shall comply with applicable federal, state and local regulations, policies, guidelines and requirements as they relate to the application, acceptance and use of federal funds for this project.

The Applicant shall comply with Executive Order 12372, Clearinghouse Review, which states all projects being submitted for federal assistance must be routed through the State's inter-governmental review system for review and comment prior to submittal of the project to the Federal agency.

The Applicant shall comply with the Office of Management and Budget Circulars A-102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments. This Circular contains standards for establishing consistency and uniformity among federal agencies in the administration of grants to state and local governments. The Circular also includes standards to ensure consistency in the implementation of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1101).

The Applicant will comply with the Office of Management and Budget Circular A-87, Cost Principles for State and Local Governments. This Circular sets forth the principles for determining the allowable cost of programs administered by state, local, and federally-recognized Indian tribal governments under grants from and contracts with the Federal Government. The principles in the Circular are designed to provide that federally-assisted programs bear their fair share of costs recognized under these principles, except where restricted or prohibited by law.

The Applicant will comply with the Office of Management and Budget Circular A-128, Audits of State and Local Governments. This Circular establishes audit requirements for state and local governments that receive federal assistance, through the U.S. Department of Transportation and it defines the responsibility of the Federal agency for implementing and monitoring the compliance requirements.

9. Protecting and Preserving the Environment.

Clean Air Act of 1955

The Applicant will comply with the provisions of the Clean Air Act of 1955, as amended (42 U.S.C.7609), which establishes guidelines for preventing and controlling air pollution. The Act provides federal assistance for development of programs to inspect and regulate emissions and to discourage the excessive use of vehicles which pollute the air. The Act also gives the Environmental Protection Agency (EPA) the authority to establish air quality standards for various regions of the country. These standards set the legal limits for specific pollutants and the EPA monitors the presence of pollutants in the atmosphere and may require those areas exceeding the standards to bring the pollution levels within the specified limits before permitting further industrial expansion.

Clean Water Act of 1977

The Applicant will comply with the Clean Water Act of 1977 (33 U.S.C. Secs. 1288, 1314, 1341, 1342, 1344) which (1) establishes criteria for the clean-up of water, (2) regulates the discharge of pollutants and toxic chemicals, and (3) promotes the protection of fish and wildlife and intergovernmental

cooperation in the field of environmental protection.

Coastal Zone Management Act of 1972

The Applicant will comply with the provisions of the Coastal Zone Management Act of 1972 (P.L. 92-583) (16 U.S.C. Sec. 1451, 1456) which establishes a policy to preserve, protect, develop, and where possible, restore or enhance, the resources of the Nation's coastal zones for this and succeeding generations. The Act gives full consideration to the ecological, cultural, historic and aesthetic values as well as the needs for economic development along the coastal zones.

Endangered Species Act of 1973

The Applicant will comply with the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531-1534) which states federally assisted projects must not jeopardize the continued existence of any endangered or threatened species, or result in the destruction or adverse modification of the habitat of the species. The Applicant is required to notify the Department of Natural Resources and the Federal Highway Administration when a project may affect an endangered or threatened species, either beneficially or adversely. The Applicant must include in the notice, the name of the listed species and/or critical habitat included; list the name, description and location of the area; list objectives of the actions; and provide an explanation of the impacts of the action on a listed species or its critical habitat.

If you need information on Indiana's endangered plants and/or animals contact:

Indiana Department of Natural Resources
Division of Nature Preserves
402 W. Washington, Room #267
Indianapolis, Indiana 46204
(317) 232-4200
(Endangered Plants)

Division of Fish and Wildlife
402 W. Washington, Room #273
Indianapolis, IN 46204
(317) 232-4080
(Endangered Animals)

Conservation of Petroleum and Natural Gas

The Applicant will comply with the provisions of Executive Order 12185, Conservation of Petroleum and Natural Gas, which states recipients of federal assistance must develop projects which encourage the conservation of petroleum and natural gas and those recipients will assist the federal agencies by identifying other projects which encourage conservation.

Prevention Control and Abatement of Water Pollution

The Applicant will comply with the provisions of Executive Order 11288, Prevention, Control and Abatement of Water Pollution, which states that in an effort to improve water quality, the construction or

renovation of facilities and buildings must meet the pollution control standards outlined in this Order.

Evaluation of Flood Hazard in Locating Federally Owned or Financed Buildings, Roads, and Other Facilities and in Disposing of Federal Lands and Properties.

The Applicant will comply with the provisions of Executive Order 11296, Evaluation of Flood Hazard in Locating Federally Owned or Financed Buildings, Roads and Other Facilities and in Disposing of Federal Lands and Properties, which states that in an effort to prevent uneconomic uses and development of the Nation's floodplains and, in particular, to lessen the risk of flood losses in connection with federally financed or supported projects, the Federal Government must evaluate the potential of flood hazards and must make efforts to minimize the exposure of facilities to potential flood damage.

Exotic Organisms

The Applicant will comply with the provisions of Executive Order 11987, Exotic Organisms, which states that federal agencies shall discourage people from introducing exotic species into natural ecosystems of the United States. In addition, federal agencies must restrict the use of federal funds for the purpose of introducing exotic species into such systems.

When an Applicant requests permission for introducing an exotic species, the request must be accompanied by a biological opinion from the U. S. Fish and Wildlife Service supporting the proposed introduction. This must be accompanied by National Environmental Policy Act (NEPA) documents, biological data and project plans. The Applicant will then be responsible for adhering to the recommendations outlined in the opinion from the U.S. Fish and Wildlife Service.

Floodplain Management

The Applicant will comply with Executive Order 11988, Floodplain Management, which states in order to avoid the long and short term adverse impacts associated with the occupancy and modification of floodplains and to avoid the support of floodplain development, that action will be taken to reduce the risk of flood loss; minimize the impact of floods on human safety, health and welfare; and restore and preserve the natural and beneficial values served by floodplains, through the regulation by federal, state and local governments of floodplain development.

Protection and Enhancement of the Natural Environment

The Applicant will comply with Executive Order 11514, Protection and Enhancement of the Natural Environment, as amended by Executive Order 11991, which provides for the compilation of environmental impact statements, (when needed) which are more useful to the public with a reduction of paperwork and accumulation of background material, and to focus on real environmental issues and alternatives. The Act requires statements to be concise, clear to the point, and be supported by evidence that agencies have made the necessary environmental analysis.

Protection of Wetlands

The Applicant will comply with Executive Order 11990, Protection of Wetlands, which states in order to avoid the long and short term impacts associated with the destruction and modification of wetlands

and to avoid support of more construction in wetlands when there are practicable alternatives, the Federal Government will take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands.

(1) Summary. All construction, maintenance, rehabilitation or installation of structures or facilities, and all real estate transactions which have the potential to adversely affect the natural and beneficial values of floodplains or wetlands or the occupants of floodplain areas, or which will result in the construction or rehabilitation of structures or facilities subject to potential harm by location in floodplains or wetlands must be documented in accordance with the following procedures. Actions subject to these procedures do not include routine maintenance which does not increase flood risk of an existing structure or facility and does not disrupt floodplain values.

(2) Procedures for planning and implementing projects in or affecting floodplains and wetlands.

(a) Floodplain and wetland determination.

During the initial stages of all planning activities, a determination shall be made as to whether the action may potentially affect a wetland or floodplain area. Federal Insurance Administration (FIA) maps, if available, shall be used as the primary reference for establishing floodplain limits; however, floodplain areas around many small lakes, ponds, and wetland areas are often less than 200 feet wide and the FIA does not delineate areas that small. If the needed information is not available from the FIA, assistance may be acquired from other sources.

If the analyses and subsequent evaluations indicate the proposed action (1) lies outside the base flood plain and outside a wetland, (2) has no effect upon floodplain or wetland, or (3) is not expected to cause indirect support of floodplain development and wetland alteration, then planning can proceed without further consideration of these procedures.

(b) Early public review.

Opportunities shall be provided for interested and concerned members of the public and representatives of federal, state, and local government agencies to become involved in the early stages of the planning process. The “coping” process required by the National Environmental Policy Actregulations will satisfy this requirement whenever an early decision is made to prepare an environmental impact statement. In other cases, an opportunity will be provided for public participation by advertising the proposed project and the major alternatives. For proposals of national concern, a notice must be published in the Federal Register stating the planning has commenced and suggestions have been solicited from the public and other agencies. For actions of local concern, a notice informing the public of the proposal and requesting their com-ments will be sent to local newspapers, posted on or near the site, and posted at nearby wildlife agency installations. A special effort will be made to inform adjacent landowners, conservation and community service organizations, and local government organizations that may be affected or interested. For proposed actions where substantial citizen interest or controversy is ex-pected, a public meeting should be held to allow a full discussion of the issues.

(c) Identification and evaluation of alternatives for locating in base floodplains or wetlands.

Whenever it is proposed to undertake or locate an action in a base floodplain or wetland, alternatives to such a location must be evaluated and their practicability determined. Alternatives to be evaluated must include:

• Carrying out the proposed action at a location outside the floodplain or wetland;

• Considering alternative sites within the floodplain or wetland which may have less impact;

• Using other means to accomplish the same purpose as the proposed action (e.g., enlarge an existing facility rather than build a new one);

• Take no action. Unless the importance of carrying out the action clearly outweighs any potential adverse effect on the floodplain environment and on human health and welfare, a no action alternative must be selected. If a practicable alternative outside the base floodplain or wetland is identified, it must be selected.

(d) Identification of impacts of the proposed action.

Occasionally, there will be no practicable alternative to locating structures or facilities in a floodplain or wetland. This will be the case for water management facilities when the objective is to preserve, manage, or restore specific natural and beneficial values; however, all adverse effects must be identified (e.g., an impoundment may benefit waterfowl while lessening habitat values for upland wildlife or downstream resources). Indirect impacts of action taken outside of a floodplain or wetland (e.g. construction of a fish hatchery or wildlife refuge headquarters) must be considered. The potential impacts of flooding on the proposed structures or facilities must be considered to minimize the risk of the Federal investment.

(e) Minimize, restore, preserve.

Measures must be incorporated into actions impacting wetlands or flood plains to minimize any adverse impacts. When managing for a specific natural and beneficial value, adverse impacts on other such values must be minimized (e.g., when managing bottomland hardwoods for waterfowl, adverse impacts on forestry resources must be minimized). When lives or property are affected, the goal is to avoid increasing base flood level over the level of the base flood prior to the proposed action.

(f) Re-evaluation of alternatives.

The proposed action and its alternatives will be re-evaluated after potential adverse impacts of the proposed action have been identified, and after measures to minimize these impacts and measures to restore and preserve other values have been incorporated. When it is apparent from the re-evaluation that there is no practicable alternative to impacting a floodplain or wetland, an explanation will be included in the environmental assessment or environmental impact statement sent to the Regional Director with the project proposal.

Pesticide Usage

The Applicant will comply with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 135 et seq.) and the Federal Environmental Pesticide Control Act of 1972 (86 Stat. 973) which forbids any person to sell, distribute, hold for sale, ship, deliver for shipment, or offer to deliver any pesticide not registered with the Environmental Protection Agency (EPA). Federal funds may not be used for application of any pesticide unless it is applied in conformance with these Acts and the Department of the Interior, Pesticide Use Policy. This requires the Applicant:

(l) To use pesticides only after full consideration of alternatives based on competent analyses of environmental effects, safety, specificity, effectiveness, and costs. The full range of alternatives including chemical, biological, and physical methods, and "no action" will be considered. When it is determined a pesticide must be used in order to meet important management goals, the least hazardous material which will meet such goals will be chosen.

(2) To utilize pest management research, control, education, and assistance programs to develop, support, and adopt integrated pest management strategies wherever practicable.

(3) To use only pesticides registered by the Environmental Protection Agency (EPA) in full accordance with FIFRA, as amended, and as provided in regulations, orders, or permits issued by EPA.

(4) That the handling and use of restricted-use pesticides be conducted with caution and only by personnel who are either certified or under the direct supervision of a certified applicator trained by a State of Indiana program meeting EPA standards.

(5) To ensure that all pesticides and pesticide containers are transported, stored, and disposed of in a manner which will safeguard human health and fish and wildlife, and prevent soil and water contamination.

(6) To give full consideration at all times to safety of humans, fish and wildlife, and other non-target organisms.

(7) To use pesticides in habitats involving endangered and threatened animal or plant consultation process.

(8) To use pesticides in wilderness areas only where necessary to protect human health or to prevent loss of significant resource values on public or private lands within or bordering the wilderness area.

(9) To conduct or require quality control monitoring before, during, and after any pesticide application in ecologically sensitive areas. Such monitoring will determine whether the application achieved the desired effects and whether there are any significant, unanticipated effects.

(10) To apply pesticides by aerial methods only when the advantages over ground methods are distinct and then only with appropriate techniques to ensure positive placement and to minimize drift.

(11) To provide opportunity for public participation in carrying out pesticide use programs.

(12) To ensure areas treated with Restricted Use pesticides (40 CFR 162.31) are posted at usual points of entry so occupants, land users, and visitors are informed sufficiently in advance to avoid possible exposure. Such posting will contain (1) a statement that the area has been or will be treated with a named pesticide; (2) the date of the treatment; (3) appropriate precautions to be taken or the date when re-entry is judged to be safe; (4) a telephone number and address for further information. Local managers may make exceptions to the posting requirement where they judge no public exposure is likely.

(13) To ensure that all lessees, operators, or other users of Federal Aid lands, waters, or facilities are aware of their obligation to comply with FIFRA as amended, and all other applicable federal and state laws and
regulations governing the use of pesticides, and to require such compliance through periodic review of the pesticides related plans and practices of the land users.

(14) A project sponsor may use pesticides without prior Federal approval if the IDNR and the Regional Director finds a system of pesticide management, meeting the above standards and has been adopted by the project sponsor. The FWS reserves monitoring responsibilities to ensure conpliance for pesticide usage involving Federal Aid funds.

Those sponsors not having such a system must obtain prior approval from IDNR and FWS for application of restricted use pesticides (as classified by EPA) involving Federal Funds.

Fish and Wildlife Coordination Act

The Applicant will comply with the provisions of the Fish and Wildlife Coordination Act (16 U.S.C. Sec. 661,662), which provide for the promotion of the conservation of wildlife, fish and game. The Agency will cooperate with federal, state and local agencies in rearing, stocking and increasing the supply of game, fur-bearing animals and fish, in combating diseases and in developing a nation-wide program of wildlife conservation.

Flood Disaster Protection Act of 1973

The Applicant will comply with the Flood Disaster Protection Act of 1973 (P.L. 93-234), (87 Stat. 975), (12 U.S.C. Sec. 24, 1701-1 Supp.), (42 U.S.C. Sec. 4001 et seq.), which states that in areas or communities which have been identified by the Secretary of the Department of Housing and Urban Development or by the Flood Insurance Administration of the Federal Emergency Management Agency as an area having special flood hazards, the Applicant must purchase flood insurance (if available) as a condition of the receipt of any federal financial assistance for construction or acquisition purposes. The Act has been expanded by increasing the limits of coverage and the number of communities eligible for participation in the flood insurance program.

National Environmental Policy Act

The Applicant must comply with the provisions of the National Environmental Policy Act (NEPA) of 1969, as amended (P.L. 91-190) (42 U.S.C. 4321-4347 et seq.) which requires that every proposed

federal project be examined to determine the effects it will have on the human environment and the findings be considered in decisions regarding implementation of the project. The Applicant must ensure that each project application will be accompanied by an environmental analysis and then an Environmental Assessment or Environmental Impact Statement will be completed for projects as required, or show that the proposed activity is covered by one or more categorical exclusion as outlined in the "NEPA in Federal Aid Proposals-Guidance to the States."

Rivers and Harbor Act of 1899

The Applicant will comply with the provisions of the Rivers and Harbors Act of 1899(33 U.S.C. Sec. 401 et seq.) (30 Stat. 115) which requires recipients of federal assistance to obtain the appropriate permits from local, state, and federal agencies for the construction of any bridge, causeway, dam, or dike over or in any port, roadstead, haven, harbor, canal, navigable river or other navigable water in the United States.

10. Coordination with the Environmental Protection Agency

The Applicant will ensure the site or facilities under its ownership, lease or supervision, which shall be acquired or developed in this project, are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities, pursuant to 40 CFR, Part 15.20.

The Applicant will notify State and Federal agencies if it receives communication from the Director of the EPA Office of Federal Activities indicating a site or facility included in the project is under consideration for listing by the EPA.

11. Historical and Cultural Preservation

Archaeological and Historic Preservation Act

The Applicant will comply with the Archaeological and Historic Preservation Act of 1974 (P.L. 93-291, 16 U.S.C. 469a-1), as amended, which states whenever any federal agency finds, or is notified in writing, by an appropriate historical or archaeological authority, that its action or connection with any federal construction project or federally licensed project, activity, or program may cause irreparable loss or destruction of significant scientific, prehistorical, historical or archaeological data. The Secretary of the Interior may conduct, with the consent of all having a legal interest in the property involved, a survey of the affected site, and undertake the recovery, protection and preservation of such site.

Archaeological Resources Protection Act

The Applicant will comply with the provisions of the Archaeological Resources Protection Act of 1979 (P.L. 96-95) which states data will be collected from archaeological sites, which are located on public lands, and the information will be shared with government authorities and the professional archaeological community, in order to protect and preserve sites which may have archaeological or historic significance.

Antiquities Act

The Applicant will comply with the provisions of the Antiquities Act of 1906 (16 U.S.C. Sec. 431) which allows the President of the United States to proclaim historic landmarks and transfer parcels of land associated with the site, to the Federal Government.

Protection and Enhancement of the Cultural Environment

The Applicant will comply with Executive Order 11593, Protection and Enhancement of the Cultural Environment (16 U.S.C. 470) which requires the preservation, restoration and maintenance of the historic and cultural environment of the nation. The Applicant must assist the federal government in identifying these sites, in investigating the eligibility of sites for inclusion in the National Register, and by avoiding or mitigating adverse effects upon such sites.

Historic Preservation

The Applicant will comply with the National Historic Preservation Act of 1966 (80 Stat. 915, 16 U.S.C. 470) and the National Historic Preservation Act Amendments of 1980 (P.L. 96-515, 94 Stat. 2987) by assisting the Federal Government in identifying, protecting, and preserving the nation's cultural and historic resources.

(1) The Applicant must, after consulting with the State Historic Preservation Officer, notify the State and Federal National Register of Historic Places, or properties that may be eligible for that list, which are subject to adverse effects by any federally aided project. Eligible properties include districts, sites, buildings, structures, or objects.

Adverse effects include:

- Destruction or alteration of all or part of the property.
- Isolation from or alteration of the properties' surrounding environment.
- Introduction of visual, audible, or atmospheric elements which are out of character with the property or alter its setting.
- Neglect of a property resulting in its deterioration or destruction.
- Transfer or sale of a property without adequate conditions or restrictions regarding preservation, maintenance, or use.

If an Applicant or State agency is advised by the State Historic Preservation Officer that a proposed project may adversely affect historic or cultural resources, the Applicant must initiate actions to locate and identify such resources. Because these resources are not often identifiable by untrained persons, a professional cultural resource survey may be required.

The Applicant must notify the State and Federal agencies of any National Register or eligible properties known to be located within the area of a federally assisted project's potential.

(2) If a previously unknown cultural or historic resource eligible for the National Register is discovered at any time during the implementation period of a federally assisted project, the State and Federal agencies must be notified and all actions which may adversely affect it must be suspended. The Federal Government will provide the Applicant and State agency with instructions on how the matter may be most

expeditiously resolved.

12. Power Plant and Industrial Fuel Act of 1978 and the Federal Highway Act of 1973

Power Plant and Industrial Fuel Use Act of 1978
The Applicant will comply with the provisions of the Power Plant and Industrial Fuel Act of 1978 (P.L. 95-620) which requires recipients of federal assistance to assist the Federal Government in the implementation of the Act by increasing the nation's self-sufficiency with respect to energy resources and encouraging the use of coal and other alternate fuels.

Federal Highway Act of 1973

The Applicant will comply with the provisions of the Federal Highway Act of 1973 (P.L. 93-87), which states that since the interstate system is in the final stage of development, increased emphasis will be placed on the construction and renovation of the federal highway systems to meet the needs of local and interstate commerce and to bring the highways up to safety standards. When federally assisted projects may impact the development or expansion of the interstate system, the agency must contact the appropriate State and Federal agencies regarding the impact of the project.

13. Record Retention, Audits and Inspections

The Applicant agrees to give the State of Indiana, the Federal Highway Administration and the Controller General of the United States, or any of their duly authorized representatives, access and the right to examine any books, documents, papers, and records of the Agency, local government and project contractors which are pertinent to a specific project for the purpose of making audit, examination excerpts and transcripts. The Applicant must retain financial records, supporting documents, statistical records, and all other records pertinent to this grant, for a minimum period of three (3) years; except the records shall be retained beyond the three year period if audit findings have not been resolved.

The record retention period starts from the date of the final expenditure report (or billing) for the project. The Applicant is authorized to substitute microfilm copies in lieu of original records after the retention period or resolution of audit findings.

The Applicant agrees to comply with the recommendations outlined in the project inspection reports, completed by State and Federal agencies. Properties and facilities acquired or developed with federal assistance shall be available for inspection by State and Federal agencies at such intervals as the Federal or State agencies shall require. Every 5 years these periodic inspections will be conducted throughout the "useful life of the facilities" for development projects.

The Applicant agrees that a permanent record shall be kept in the participant's public property records, and shall be available for public inspection, detailing the use of federal assistance to acquire and/or develop the project site(s), and the site will not be converted to other uses without the prior written approval of the State and Federal agencies.

14. Project Termination

The Applicant may request withdrawal of the project at any time prior to the first payment or expenditure

of grant funds. After the initial payment, the project or agreement may be rescinded, modified or amended only by written mutual agreement between the Applicant and the State agency.
The Federal or State agency may terminate the project in whole or in part, at any time before the date of completion, whenever it is determined the Applicant has failed to comply with the terms of the project proposal or the intent of the program. Failure by the Applicant to comply with the terms of the agreement may cause suspension of all obligations by and a return of any monies received to the State of Indiana. The Federal or State agency will promptly notify the Applicant in writing of the determination and the reasons for the termination, together with the effective date. Payments made to Applicant or recovery of funds by the State or Federal agency under projects terminated for cause shall be in accord with the legal rights and liabilities of the parties.

The Applicant, State and Federal agencies may terminate the grants in whole, or in part at any time before the date of completion, when all parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The Applicant shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Federal agency may allow full credit to the State agency or Applicant for the Federal share of the noncancellable obligations, properly incurred by the grantee prior to termination.

Termination either for cause or for convenience requires the project in question be brought to a state of recreational usefulness agreed upon by the Applicant, State and Federal agencies or all funds provided by the Federal agency be returned. The Applicant will indemnify the State of Indiana from the obligation of such repayment.

15. Indemnity

The Applicant agrees to hold harmless, indemnify and defend the State of Indiana, its agencies, officers and employees from all claims, demands, suits and judgments which may result from any loss or damage to property or injury or death of any persons on the project site or in any other way connected with the issuance of this grant.

16. General Compliance

The Applicant shall comply with all applicable laws, rules and regulations and to the further terms and conditions specified by the Federal and/or State agencies. Applicant acknowledges the detailed conditions and terms of these assurances shall be in accord with the guidelines established by State and Federal agencies for the Recreational Trails Program.

The Applicant agrees that the benefit to be derived by the United States from the full compliance by the Applicant with the terms of this agreement is the preservation, protection, and the net increase in the quality of public trails and resources which are available to the people of the State of Indiana and of the United States, and such benefit exceeds to an immeasurable and unascertainable extent the amount of money furnished by the United States by way of assistance under the terms of this agreement. The Applicant further agrees, therefore, that the appropriate remedy in the event of a breach by the Applicant of this agreement shall be the specific performance of this agreement.

Chapter 5

LAND ACQUISITION CRITERIA AND PROCEDURES

ELIGIBLE ACQUSITIONS

Land may be purchased from either private landowners or other units of state or local government. Sites already owned by the town, city, township or county which the grant recipient represents, but which have been under the control of another department of the same local unit, may not be purchased with grant funds.

Property which the current owner acquired with federal funds may not be purchased with RTP funds nor could it be used as an in-kind land contribution match for a grant. However, a grant could be made to develop facilities on it if the source of local match were other than the land value.

STATE AND FEDERAL ACQUISITION POLICIES

Federal Uniform Relocation Assistance & Real Property Acquisition Policies Act of 1970

All acquisitions must conform to the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Federal Uniform Act) P.L. 91-646, and Indiana's Land Acquisition Law, P.L. 97 (I.C. 8-13-18.5 et seq.), which specifies the same procedures for land acquisition by public agencies. These laws prescribe policies and procedures to ensure fair, equitable, and uniform treatment of persons whose land is acquired by governmental units and through federally assisted programs.

The provisions of the Federal Uniform Act apply to the acquisition of all real property for, and the relocation of all persons displaced by, projects which receive federal assistance. The Act applies regardless of whether federal assistance is used for acquisition or development. For example, a organization cannot knowingly circumvent the federal law by acquiring the land with local funds and not follow the regulations of the Act and then apply for development funds in a later project. For all development projects, proof must be supplied that the project site was acquired in accord with P.L. 91-646 if the land was acquired after January 2, 1971. This is explained in more detail for development projects in Chapters 2 and 6 and in the Appendix.

There are two major sections to the law: policies regarding the acquisition of land and relocation benefits to landowners. Each section will be discussed separately in this chapter.

The acquisition procedures explained in this chapter, should be read with extreme care. If the procedures are not followed, the sponsor could encounter severe problems in being reimbursed regardless of the method of acquisition.

LAND ACQUISITION COSTS

Eligible Costs

The following land acquisition costs are allowable and eligible for reimbursement under the Recreational Trails Program.

1. The appraised fair market value of fee simple title or an easement for the use of real property acquired by negotiated purchase.

2. The purchase price for an easement or fee title to real property acquired by bargain sale (below appraised value). The donated land value (the difference between the purchase price and appraised value) may be used as a match for federal funds to purchase that parcel of land, purchase other pieces of property, or develop facilities. Similarly, lands for which 100% of the value is donated may only be used as the organization's share of a project to purchase other land or build facilities.

3. Incidental acquisition and relocation costs only as described in the Uniform Relocation Assistance and Real Property Acquisition Policies Act.

4. Appraisal Fees.

5. Engineering reconnaissance fees where a land acquisition project involves proposed major facilities and their feasibility needs to be established. Examples of such eligible fees include hydrologic investigations, subsurface explorations, availability of construction materials and preliminary cost outlines. Detailed plans and specifications for construction of the facilities would not be eligible in a grant for only the land purchase, but would be eligible in a grant which included building the facilities.

Ineligible Costs

Costs ineligible for reimbursement in an acquisition project include:

1. The purchase of real property to which the project sponsor became committed prior to federal approval of the grant unless the property was granted a waiver of retroactivity for early acquisition from the Division of Outdoor Recreation.

2. Boundary surveys, title search, legal fees, interest charges, and fines and penalties paid by the project sponsor.

3. Incidental costs relating to real property acquisition and interests in real property unless allowable under the Uniform Relocation Assistance and Real Property Acquisition Policies Act.

4. Taxes for which the local sponsor would not have been liable to pay.

5. Damage judgments arising out of acquisition whether determined by judicial decision, arbitration or otherwise.

TRANSFER OF TITLE

According to Indiana statutes, land is transferred on the date the warranty deed is signed by the previous landowner and the buyer. If reimbursement is to be requested for the cost of a land purchase, the deed cannot be signed by the seller and buyer until the project is approved by the Federal Government. The applicant also cannot make a commitment to purchase real property prior to federal grant approval as described below under timing for purchases. The applicant may need or want to guarantee land will be available for purchase after grant approval. The property may be reserved for the applicant by: (1) having a private third party acquire and hold title to the land, or (2) by securing an option to purchase by a later date. A third party could be an individual, private business or educational institution, not-for-profit organization other than the applicant, or other similar entity.

TIMING FOR PURCHASES AND DATE WHEN COSTS ARE INCURRED

The applicant cannot make a commitment to purchase land prior to federal approval of the grant. Commitment may occur if, (a) an option to purchase is exercised; (b) payment is made to an escrow agent even though the applicant has not received the deed from the escrow agent; (c) a contract to purchase is executed; (d) the deed is accepted although payment has not been made; (e) the buyer takes possession of the property; or (f) other written promises to purchase have been made.

Confusion often arises in acquisition projects on the exact date when land purchase costs are incurred. To be eligible for matching assistance, purchase payment(s) to the landowner must be incurred within the project period (date of federal approval to the date of project expiration). Acquisition costs are incurred on the date when the earliest of any of the following transactions take place:

1. Project sponsors accept deed or other appropriate conveyance.

2. Project sponsor makes full payment for the property.

3. Project sponsor makes the first payment in a series of spaced or time payments.

4. Project sponsor makes the first or full payment as stipulated in an option agreement. (The cost of the option is still an allowable cost, and may be paid prior to federal grant approval.)

5. Project sponsor makes first partial or full payment to an escrow agent.

Options

The applicant may wish to take an option on the property to prevent the land being sold prior to the approval of a project. The date an option is exercised is normally the date the buyer advises the seller that he desires to complete the purchase under the terms of the option. The option may include special conditions or terms which govern whether or not the buyer will purchase. For example, one condition could be the availability of funds or financing. An option is unacceptable if it is exercised prior to project approval, unless it specifies that acceptance is contingent on the availability of RTP grant money so the date of project approval would be the exercise date.

If an option is signed prior to federal approval of the project, then it should extend at least until spring so

it may be exercised after the grant is approved. Since competition for funds is often intense, applicants may find it helpful to negotiate an option which can be extended at no cost for a second year. This could enable the project to compete for funds a second time if it were not approved the first year.

The purchase price in an option is to be the amount negotiated after the land has been appraised and the fair market value offered to the landowner as explained in the section on negotiated purchases. Only one payment toward the property may be made under an option. A maximum of 10 percent of the approved appraised value of the property may be paid at the time the option is transacted. This amount should be part of the purchase price of the property. Any additional payments prior to grant approval may make the acquisition ineligible. It is important that documentation of the option payment required for reimbursement billings be kept for later use. Project sponsors are encouraged to consult the Division of Outdoor Recreation before negotiating an option to ensure the eligibility of the land acquisition under the option conditions.

Timing For Land Donations

Property donations may be transferred to the applicant after project approval. If a land donor wants to convey the property before project approval, a letter requesting a waiver of this policy must be submitted to the Division of Outdoor Recreation. The waiver request should describe the situation and include a letter of intent from the land donor. Location and site maps should also be included with the request. A waiver should only be requested when necessary. Waivers will allow the applicant to preserve donated land value as a match. Granting the waiver will not guarantee the final approval of a project. Waivers will not normally preserve the land value for more than two annual grant application periods (through the following grant round). If the applicant receives title to a land gift after submitting a grant application and a grant is not awarded for the project that fall, the donated land value may only be used as a match for a grant application the following year. For this reason the applicant may wish to delay taking title until it is known whether a grant will be awarded. If a grant will not be awarded, and the donor wants to make the donation, the land could be given to a third party, such as a foundation or other not-for-profit organization other than the applicant. This third entity could donate the land in a later year and the land value would be eligible as a match. Land donations will be credited toward the sponsors match. No direct reimbursement will be given for a land donation.

PROPERTY RIGHTS FOR CONTROL AND TENURE

Adequacy of Title

For lands included in a project, the sponsor must have title or adequate control and tenure of the project area in order to provide reasonable assurances that a conversion to a use other than public trail use will not occur without federal approval. Copies of the property titles, leases, easements, or appropriate documents must be submitted as part of a project's documentation.

The most common method of acquiring property is by fee simple title. This is the preferred method of acquisition since it gives the holder an absolute right to the property within limitations imposed by state or federal law.

In some instances the agency may wish to purchase less than fee simple title, such as easements, rights-

of-way and title subject to deed restrictions. This would be permissible when fee simple is excessively expensive and a lesser control of the area will not detract from the recreational use of the land.

Title to land may be conveyed by warranty or quit claim deed to the applicant. Neither the State of Indiana or Federal Government will obtain title to a local area or facility acquired with federal assistance. The project sponsor must submit a description of the character and nature of the title received before requesting reimbursement. This evidence of title must include the property deed and either a written opinion from an attorney on the adequacy of title or a title insurance policy. A survey may be required when there is reasonable doubt about the exact location of the boundary or of the size of tract being acquired. The project sponsor is responsible for quieting claims against title and for replacing property found to have defective title with other properties of equivalent value, usefulness and location acceptable to the Department of Natural Resources and Federal Highway Administration or by paying the grant back to the Federal Government if the land is lost.

Reservations, Adverse Rights, and Deed Restrictions

Oil, gas, mineral, or other reservations and rights held by others are permissible only if it is determined the project purposes and the environment would not be adversely affected. Such reservations must be described in the narrative of the project proposal, and how they will be dealt with to avoid impacting recreation and the environment. The acquisition of land which is subject to the reservation of surface rights extending more than 5 years must be justified. Reservations that are incompatible with project purposes will not be accepted.

Often landowners desire to specify restrictions in the property deed. The most frequent example would be that the land can only be used for park purposes. If a deed restriction for park purposes indicates the grantor's intent and does not provide for reversion of title upon failure to comply with the grantor's wishes, the condition may be acceptable. In certain situations a landowner may retain a life estate, under which he or she retains use of the property while living.

Land which has a reversionary clause in the deed whereby the landowner could repossess the property if it ceased to be used solely for the purpose specified in the deed may make the project ineligible. If a reversionary clause in the deed specifies that the land must be developed for a specific purpose, even though the project includes that type of development, the project may be ineligible. A development project to construct a facility on land with a reversionary clause in the deed may also be ineligible, even though land may have been acquired without federal funds. Federal approval is required to acquire or develop land with reversionary clauses or outstanding interests in the property deeds. The Division of Outdoor Recreation should be consulted prior to submitting a project application involving deed clauses and restrictions.

If at some later date the rights to subsurface reservation or other deed restrictions adversely affect recreation use of the land or facilities, the applicant will be responsible for acquiring replacement property of equivalent usefulness, value and location or returning the federal funds used in the project.

Outstanding property rights may affect the value of the land. Examples include mineral rights, road rights-of-way, utility easements, and other deed restrictions. An appraiser should be fully aware of, and take into consideration the legal description of the property and any restrictions to be placed on the rights transferred. An appraisal of a property's value involves full consideration of the rights remaining with

the property and, where appropriate, the effect the loss of these rights has on its value.

Easements

In some instances, the applicant will not be able to purchase the property but can acquire an easement. An easement must be for a period of at least 25 years or equal to the facility life of any proposed development. During the time period, the easement cannot be revoked at will by the landowner unless the applicant or state is guilty of an infraction of the easement. The land must still be retained in public trail use for the duration of the easement period even though the easement has been revoked. Provisions stated in the easement cannot be detrimental to the proposed recreational development.

A draft copy of the easement must accompany the application for acquisition and development projects. If an easement has been or is to be executed prior to the submission of a development project application, a draft copy of the easement should be sent to the Division of Outdoor Recreation for review. Advance approval of such agreements may help ensure the eligibility of the site for funding.

Negotiations for easements must follow general negotiated land purchase regulations including the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act.

Similarly, if federal assistance is being requested on the purchase of an easement, the document cannot be transacted until the project has received federal approval.

RAIL BANKING

If the applicant is planning on developing trail facilities on land involved in the "Rail Banking" process, please contact the Division of Outdoor Recreation to determine the eligibility of your project proposal. Please have a copy of any agreements involved with this process.

METHODS OF ACQUIRING LAND

Negotiated Purchases

This section outlines specific procedures under the Uniform Relocation Assistance and Real Property Acquisition Policies Act to follow in acquiring land through negotiated purchases involving federal assistance. The following steps must be taken by the applicant in negotiating with the landowner.

1. Make initial contact with the seller to see if the land might be available for sale. At this point, the price should not be negotiated since the purchase amount must be based on an appraisal.

2. Obtain information as to whether or not the owners, business(es), or tenants will be eligible for relocation assistance. The Department of Natural Resources has booklets available which can be given to the landowner or tenant. The property residents must be advised of their right to relocation assistance.

3. Have the land appraised according to the Uniform Appraisal Standards for Federal Land Acquisitions, with the landowner given the opportunity to accompany the appraiser. The appraiser must have a copy of the appraisal requirements which are located on the web at www.usdoj.gov/enrd/land-ack.

4. Submit the appraisal to the Division of Outdoor Recreation for review by a review appraiser in the Department of Natural Resources' Division of Land Acquisition. Upon receiving approval of the appraisal, the applicant then knows the acceptable fair market value of the property to be acquired.

5. Inform the owner in writing of the value of the property based on the results of the appraisal and offer to purchase the property for this price. Also, inform the landowner of his or her eligibility for relocation benefits. It is not necessary to show the appraisal itself to the landowner. The authorized agent of the applicant and the property owner must sign the Statement of Just Compensation and Written Offer to Purchase form, which should indicate the appraised value of the property. A copy of this form is included in the Appendix.

6. Based on the written offer at the appraised value, the final selling price is negotiated. If the purchase price is more than the appraised value, additional documentation explaining the difference in value will be needed, as explained later in this section. If the price is less than the appraised value, the acquisition is called a "bargain sale", and a Waiver of Right of Just Compensation must be signed by the landowner as explained in the section on bargain sales. At this point, the applicant may sign an option to purchase, if desired, but before the grant receives federal approval the applicant may not make a commitment to acquire the property.

A project application may be submitted during any of the above steps to acquire the land. The appraisal; however, must have been submitted and approved prior to Step 6. Again, the land can only be acquired during the approved project period to be eligible for reimbursement of acquisition costs. The above procedure is mandatory and must be followed for all negotiated purchases.

Applicants should be aware that state regulations, which apply to acquisitions by public agencies for which federal funds are not provided, follow the same sequences of steps, except the DNR does not review local documentation. The state also specifies relocation benefits for landowners and tenants.

Land purchased by negotiated purchase is based on a fair market value for the property as established in an independent appraisal prepared by a real estate appraiser hired by the applicant. An appraisal, if competently compiled by a qualified person, should be an acceptable estimate of property value. It cannot be assumed, however, to be a final determination of value. The approved appraisal value is the minimum floor value for establishing the amount of just compensation offered to the owner at the initiation of negotiations. The negotiations between a willing seller and a willing buyer will sometimes set a price that is higher than the appraisal, and this marketplace value must be considered with the appraised value in establishing the reasonable limits of federal assistance.

When the project sponsor believes the negotiated price is an adequate indication of market value, yet it is higher than the approved appraised value, a detailed and well documented statement on this difference with all pertinent appraisal documents should be submitted. This statement should explain why the appraisal may not reflect the true value and what steps the applicant took to establish the true value. This statement should include a history of negotiations documenting discussions of price between the landowner and the applicant. The statement may indicate the importance of the proposed purchase as opposed to other alternative sites, or other justification regarding the need to purchase the subject property at a higher amount. If the Federal Government agrees the negotiated price represents a reasonable estimate of the property value, that amount can be eligible for assistance if sufficient funds are available in the grant. This statement is to be submitted with the billing for the property.

Sometimes a seller or purchaser desires to spread payments for land over several years. "Contract Sales", where installment payments are made over a specified period of time at the end of which the buyer receives title are acceptable for RTP projects provided the entire purchase will be completed within the project period (usually 2 years). The risk is in the event the periodic payments are not paid when due, the seller could foreclose and regain complete ownership of the land. Thus, the federal and local funds would have been spent with nothing to show for the expenditure. If the applicant fails to complete the purchase, the federal funds invested must be returned or another replacement site acquired. Reimbursement of costs incurred can be made as the land is purchased in installments.

A suggested alternative is to subdivide a tract into smaller parcels. The applicant may acquire full title to each parcel individually and receive reimbursement as each is acquired. This does not jeopardize the investment of public funds.

Assistance for separate parcels may need to be applied for in different grants over a period of years, depending upon the cost and timing of the acquisitions.

Condemnation

Condemnation is not allowed with the Recreational Trails Program. All land acquired with RTP monies must be aquired from a willing seller.

Land Donations

A donation of land from a private landowner can be used as part or all of the sponsor's share of the project costs, provided the donor did not acquire the land with federal funds. The donation may be used to match the federal funds for: (1) the purchase of land at the same site, (2) the development of facilities on or at the same site as the land gift, or (3) the purchase of land or construction of facilities at other sites serving a similar purchase. A letter of intent to donate the property to the applicant from the landowner must accompany the project application.

The date when title to a land gift is transferred to the applicant is critical to the eligibility of the land value for a match. The earlier section in this chapter on timing for land donations should be clearly understood.

A written offer to purchase and a statement of just compensation are not necessary when acquisition is by full donation. The legal act of donation itself precludes the necessity for these documents which relate only to negotiated purchases and bargain sales.

To appraise a land donation, the appraiser should first be approved by the Indiana Department of Natural Resources, Division of Land Acquisition. To obtain a list of qualified appraisers call (317) 232-4050. The appraisal must be paid for by the project sponsor. Appraisals provided by landowners may not be used as the basis for federal assistance.

For the project application, one copy of either the appraisal or letter appraisal must be submitted. If a letter appraisal is submitted, it is recommended the appraiser providing the statement be hired to complete the full narrative appraisal, if the project is approved. Since a land donation constitutes all or part of the local matching share of a project's costs, it is important that the land value be established early

in advance of application to enable the applicant to take full advantage of the donated land value and at the same time prevent the project sponsor from having to provide additional local funds if the land value is later found to be less than anticipated.

Once the appraisal is approved, federal approval is obtained, and the property is transferred the donated land value will be credited towards the grantee's matching share. If the match has been met, then the development costs will be reimbursed at 100%.

Bargain Sale

In some cases, a landowner may be willing to sell real property for less than the full market value, but is not able to donate the entire value of the land. A bargain sale involves the purchase of a tract of land. The difference between the sale and the appraised fair market value is considered donated land value. For an RTP project, federal reimbursement may be provided for the purchase part of the acquisition. The fee simple donated value in a bargain sale may be used to match the purchase of the same tract, or other land purchases and facility construction, similar to lands which are 100% donated.

The appraisal requirements for full purchases also apply to bargain sales. Under the Uniform Relocation Assistance and Real Property Acquisition Policies Act, the applicant is required to offer the landowner the full appraised value of the land. When the lesser sale price is negotiated the owner must sign a Waiver of Right to Just Compensation. A waiver of entitlements under the Act by property owners or displaced person will be approved only in fully documented cases where the reasons for the waiver are explained. The purpose of the Act is to ensure each displaced person and property owner receives a just and equitable settlement through the purchase price and payment of relocation expenses. Few landowners would involuntarily accept an amount less than their entitlement, although in some instances landowners may be willing to accept less than the appraised value for their property. In such cases, the landowner must sign a waiver which includes the following information:

1. That the owner has been fully informed of his or her rights and benefits under P.L. 91-646.

2. That the acquiring agency has provided a written Statement of Just Compensation and Offer to Purchase for the appraised property value (state the amount).

3. That the owner is satisfied with the negotiated price, even though it is less the appraised fair market value, and/or

4. That he or she elected to waive entitlement to the relocation benefits (this would include the dollar amount by category of moving expenses, payments for replacement housing, incidental expenses, etc.).

5. A statement setting forth the reasons for accepting a lesser amount than the appraised value offered by the local agency or for waiving relocation benefits.

A sample waiver is included in the Appendix. This statement must accompany the billing for the property along with the Statement of Just Compensation and Offer to Purchase.

RELOCATION ASSISTANCE

Relocation Benefits

A resident or residential business or farm property to be acquired may be eligible for relocation assistance. This resident, who can be either a landowner or a tenant, may be reimbursed for expenses incurred in moving from the purchased property to a new dwelling. The purpose of providing relocation benefits is to enable a property resident to move to a new residence or business location without undue personal hardship.

These costs are based on maximum and minimum schedules specified in the law and Department of Transportation's guidelines. Relocation costs are to be paid for moving expenses, replacement of business, or housing, search, closing and other costs the occupant may pay related to moving into another dwelling or relocating a business.

Landowners are also entitled to reimbursement of certain incidental expenses incurred in conveying title. These costs may be incurred even though no one was living on the property at the time of purchase. These costs include:

1. Recording fees, transfer taxes, revenue stamps, notary fees or similar expenses.

2. Penalty costs for prepayment of pre-existing recorded mortgages as may be required to convey a clear title.

3. The pro rate portion of real property taxes which would apply to the period after the date title vests in the government or the effective date of possession by the government, whichever is earlier.

Often these costs are paid by the applicant upon acquisition of the land. Payment of these costs should be documented at the time of the billing. When a applicant determines the land proposed for purchase may involve relocation, the Division of Outdoor Recreation should be contacted for brochures, forms, and guidelines for procedures and determining costs. It is essential that landowners be informed of relocation benefits. They must also receive payment unless they voluntarily waive their benefits.

Relocation Plan

A relocation plan shall be developed for projects where land acquisition will cause displacement of persons from their dwellings, business, or farm operations. The relocation plan shall be undertaken during the planning phase of the project prior to the initiation of land acquisition negotiations for the project. Based on this plan, the project sponsor should proceed with a project only after it has been determined that within a reasonable period of time prior to displacement, decent, safe and sanitary replacement housing will be available. Then information brochures and forms for claiming costs should be distributed to the persons to be relocated.

A relocation plan needs to include:

1. The number of individuals, families, businesses, farms, and non-profit organizations to be relocated.

2. The availability of decent, safe, and sanitary replacement housing within the financial means of the individuals and families being relocated.

3. The estimated total cost of payment to displaced persons for all benefits under P.L. 91-646 for replacement housing; and

4. The estimated cost of administering required relocation services to displaced persons.

The relocation plan may be coordinated with the Dept. of Housing and Urban Development and other agencies performing relocation in the area. Applicants may contract with a city relocation agency, such as the Community Development Department, or a private firm to handle relocation services. The plan is to be submitted with the project application. Relocation costs should be part of the cost estimates for the project. Payments to relocated persons are eligible to be reimbursed on an 80-20 basis.

Appeals

Although technical assistance is available through the DNR, the project sponsor will be responsible for all negotiations with landowners or tenants concerning relocation benefits. These persons relocated have the right to appeal the determination of the amounts they are eligible to receive and need to be informed in writing of their right to appeal. Formal appeals may be submitted by relocated individuals to the DNR. Department staff will review all data concerning the calculation of relocation payments. If the person is still dissatisfied, a hearing will be scheduled with the Director of the Department of Natural Resources. The appellant shall be given a full opportunity to be heard at the appeal hearing. After the hearing, the result may still be appealed through the judicial review of the Indiana Court System. No appeals will be heard by the Department of Transportation

Waiver of Relocation Benefits

As indicated in the land acquisition section on bargain sales, tenants and landowners may waive their rights to relocation benefits. In such instances a waiver must be signed similar to the one included in the Appendix.

On September 2, 1971, Indiana became eligible to participate in the federal relocation law. As provided in Indiana Public Law No. 97, page 445 of the 1971 Acts of Indiana, public agencies must pay relocation assistance to persons displaced by acquisition of their property for public improvements. Any land purchased by an applicant, whether or not federal assistance is involved, is subject to paying relocation benefits; however, project sponsors may decide federal land acquisition regulations are too restrictive and may decide to purchase the property with local funds and then submit a development application. A circumvention of the federal or state land acquisition procedures will jeopardize the eligibility of a future development project at this site. The federal law specifies that such a deliberate refusal to follow the proper land acquisition procedures will make all future development projects ineligible for federal assistance.

DEVELOPMENT ON LAND ACQUIRED WITH FEDERAL ASSISTANCE

Future Development Conditions

It is not necessary that the future development be carried out with federal assistance or the proposed unassisted development receive prior approvals so long as it is in accord with the purposes for which the acquisition was made.
Once the land is acquired with RTP assistance, it must always be used for public trail purposes.

On land where federal funds were reimbursed on the acquisition, certain regulations for the development of facilities must be followed. All facilities must be accessible to persons with disabilities. Chapters 3 and 6 explain other development requirements, such as state and federal permits and approvals, which need to be obtained for construction projects.

SUMMARY OF STEPS TO TAKE IN NEGOTIATING WITH LANDOWNERS

Purchases and Bargain Sales:

1. Make contact with the landowner regarding availability of the property and permission to appraise. Obtain information on the owner's and any tenant's eligibility for relocation benefits.

2. Have the land appraised according to the Uniform Appraisal Standards for Federal Land Acquisitions by a qualified appraiser. The landowner must be given the opportunity to accompany the appraiser.

3. Submit the appraisal for approval by IDNR and Federal Government.

4. Offer to purchase the property for the approved appraised value using the Statement of Just Compensation and Offer to Purchase in the Appendix. Also inform the landowner and any tenants of their eligibility for relocation benefits.

5. Negotiate the selling price.

   a. If the owner wishes to donate part of the land's value, the acquisition will be a bargain sale and the owner needs to complete the Waiver of Right to Just Compensation in the Appendix. Similarly, if a person to be relocated does not want reimbursement for relocation expenses, that person needs to sign a similar waiver for these benefits.

   b. In cases where the sale price is negotiated higher than the appraised value, a Statement of Difference in Value may be submitted to the IDNR as justification for the higher price. Assistance may be provided for the increased amount, but is not guaranteed.

6. An option may be obtained once the price has been determined for a negotiated purchase.

7. Federal grant approval and CE must be received by this point.

8. Obtain title insurance or an abstract opinion, and then title to the land. Theproject sponsorpays for the land, closing and incidental acquisition costs and relocation benefits.

9. Record the deed with a clause stating that the land will remain for public trail use in perpetuity.

10. A reimbursement request for the federal share of the acquisition costs may then be submitted to the IDNR.

Donations

1. After the landowner offers to donate the property, obtain permission to appraise and information on the owner's and any tenant's eligibility for relocation benefits.

2. Have the land appraised according to the Uniform Appraisal Standards for Federal Land Acquisitions, with the donor being given the opportunity to accompany the appraiser.

3. Submit the appraisal for IDNR and federal approval.

4. Submit the grant application to the IDNR. Do not accept title prior to application deadline without special permission (a Waiver of Retroactivity). If the project is selected to receive a grant, title to the land should not be transferred to the project sponsor until federal grant approval and CE.

5. Obtain title insurance or an abstract opinion, the property deed, and pay for closing an incidental acquisition costs and any relocation benefits.

6. Record the deed with a clause stating the land will remain for public trail use in perpetuity.

7. A reimbursement credit request for federal funds based on the land gift may then be submitted to the IDNR.

Chapter 6

DEVELOPMENT PROJECT CRITERIA AND PROCEDURES

DEVELOPMENT PROJECTS

Selecting Development for a Grant Application

A development project may consist of new construction or renovation of an improvement or group of related improvements designed to provide facilities for trails. A project may include the complete or partial development of one area, or it may include a series of identical developments on several separate sites along a linear corridor. In either case, the project must be a logical unit of work to be accomplished in a specified period of time. Projects should meet the needs of local citizens, be attractive, safe, compatible with the site's natural features, and accessible to people with all abilities.

Site Location, Control and Tenure

Facilities may be built on sites owned by the federal and state governments, park and recreation boards, land owned by not-for-profit agencies or a city or county. If the land is owned by another city or county department or local governmental unit, title must be transferred to the applicant. In some instances memorandum of agreement or a use agreement may be allowable if approved by the state.

Project sites may be conveyed by easement to the applicant from another public entity or the private sector. Easements must be for a minimum of 25 years.

According to federal regulations, an applicant that is going to develop trail facilities will have to enter into an agreement with the State concerning the use, operation and maintenance of the site. The agreement will state that the project sponsor must keep the facility open for public use and maintain it according to federal standards.

Eligible Types of Development

Development projects eligible for assistance include, but are not limited to, the following types of facilities which provide public use of trail facilities: motorized trails, non-motorized trails, water trails, multiple use trails, rail trails, trail crossings, signs, trailside and trail head facilities, and other support facilities.

ELIGIBLE DEVELOPMENT COSTS

Consultant Services

Consultants for projects may be hired through the competitive negotiation process. A scope of services desired by the applicant needs to be prepared and normal advertisement procedures followed. The advertisement must identify the evaluating criteria the local sponsor will use. The local sponsor must request proposals from firms and interview several of those submitting proposals. Firms are to be selected objectively based on their professional qualifications, experience and quality of past performance. Hiring the lowest bidder is not required; however, a written explanation of the process used in hiring a consultant must be submitted to the Division of Outdoor Recreation with the contract. During the negotiation process, all bidders must be treated equally and given the same opportunities to revise their bids. Agencies should consult with their attorney regarding hiring a consultant according to I.C. 5-16-11.

Federal regulations do not authorize payment of fees for consultant on a "percent of the construction contract" basis. The consultant may be paid according to: (1) fixed price, (2) per hour, (3) per diem, or (4) actual expenses incurred. The contract must specify the payment method. No consultant fee may be paid to any federal, state, or project sponsor's employee unless such a payment is specifically agreed to by the Division of Outdoor Recreation.

Typical eligible consultant costs include: feasibility studies, site planning, environmental assessment preparation, cost estimates, archaeological work, construction plans and specifications. Costs incurred for designing facilities not developed in the project are ineligible. If a consultant is hired after the application is submitted, the project sponsor must notify the Division of Outdoor Recreation.

Construction

Allowable construction costs include all necessary construction activities, from site preparation (including demolition, excavation, grading, etc.) to the completion of a facility. Construction may be carried out through a contract with a private firm, by use of the agency's own personnel and equipment (force account), or by in-kind contributions. Regulations regarding these three types of construction are explained later in this chapter.

Contract Construction Wages

Wage rates established for construction project employees must be the prevailing wage rate for the area. Since those rates change periodically, a new State Wage Rate Scale must be requested and included in the specifications each time construction is bid in a project.

The program is not subject to the Davis-Bacon Act, so contractors are not bound to construction wage rates established by the U.S. Department of Labor, unless other federal funds subject to the Davis-Bacon Act are used as the local share. To obtain the most recent copy of the prevailing wage rate scale for a local area, please contact:

Indiana Department of Labor,
Wage and Hour Division
402 W. Washington, Room #195
Indianapolis, IN 46204-2673
Telephone: (317) 232-2683

Supplies and Materials

Supplies and materials may be purchased for a specific project or may be drawn from a central stock. The former should be charged to a project at their actual price, less discounts, taxes, rebates, etc. and the latter should be charged at cost under any recognized method of pricing which is consistently applied. Incoming transportation charges are a part of these costs. Eligible project supplies are those needed for the construction of a project. Supplies needed for the operation and maintenance of a facility are not eligible.

Information and Interpretation

Fund assistance may share the costs of providing information directly related to a project, as distinguished from publicity. These may include: signs giving information and directions at the entrances of recreation areas and other necessary places throughout the project site; display boards; dioramas; interpretive facilities for the explanation of items of interest; and other facilities required to explain the site and bring it to public attention.

METHODS OF DEVELOPING FACILITIES

Development of a project site may be by contract, force account, in-kind contribution, or a combination of these methods. The method(s) which will be used must be indicated in the Program Narrative as part of the grant application. The procedures regarding each of these construction methods are explained below.

Contract

The most common and preferred method of developing an area is by contract because the project sponsor is assured the construction will be completed by a designated date according to predetermined work standards.

All construction associated with a Recreational Trails Program project must comply with state competive bidding procedures and requirements.These requirements vary from different public and not-for-profit agencies. If you are unsure of these requirements contact your local or city attorney. Please note the total contract, rather than the amount of federal assistance, shall be the governing factor in determining whether contracts or subcontracts must be competively bid.

Local sponsors must inform bidders that federal funds are to be used in the project, and all relevant federal requirements apply. It is preferable to include this information in the bid invitations or in notices released prior to bid invitations.

The federal government requires certain information be included in the specifications for and thus as part of all contracts, and certain documents be filed, for construction for which federal reimbursement will be requested.

Federal Contract Provisions, must appear verbatim in the specifications for any contract or purchase in which state contract requirements mandate project sponsors to let competive open bids. If these pages are not included in the specifications given to bidders prior to bidding, the cost of the resulting construction contract will not be eligible for reimbursement.

If an architectural or engineering firm prepares the specifications, make sure their standard contractual statements do not conflict with federal requirements. Examples of conflicts include termination or breach of contract and types and amounts of bonds required. The contracts must be written in such a way that the construction specifications, including the federal requirements supplement, are incorporated into the scope of the contract. Failure to follow these procedures will jeopardize reimbursement for the project.

A copy of all plans and construction specifications, including the addenda must be submitted to the Division of Outdoor Recreation for approval and prior to advertising for bids. In addition, copies of the bid tabulation summary sheet and all construction contracts must be submitted within fifteen (15) days after award of the contract. Any proposed change orders to the contract should first be cleared with the Division of Outdoor Recreation before the change order is negotiated.

The contract award should be made to the individual or firm whose bid is most advantageous to the local sponsor. Contracts must be awarded to responsible contractors or suppliers who have the ability to perform successfully under the terms and conditions of the contract. Consideration should be given to such matters as contractor integrity, record of past performances, financial and technical resources, and accessibility to the necessary resources.

When the local sponsor considers the lowest bidder unqualified, incapable, or not responsible, the next lowest bidder may be awarded the contract. If a no-bid contract is awarded by the local sponsor, or a contract is awarded to other than the lowest bidder, a letter of justification for this action must be sent to the Division of Outdoor Recreation with the bid summary. Federal approval must be obtained prior to awarding the contract in these two cases.

Force Account

The second method which may be utilized to develop a project site is a force account. A local sponsor may choose to use its own employees, machinery, or materials in the development of facilities, rather than contract with an outside company.

Force accounts cannot be used to circumvent a competitive bidding process required by State law. The Federal Government does not limit the amount of work which can be done by force account, so in accordance with State Law, all force account projects must cost no more than the competive bid threshold requirement of the local agency or organization. Further interpretation of the Indiana laws regarding this issue should be directed to the State Board of Accounts.

If a local sponsor plans to claim force account costs, this intent must be stated in the application

documentation and in the explanation of any subsequent project amendment requests. The Appendix contains a special Force Account Labor Form which is completed by the laborer and the local agency director. This statement is needed to certify the rate and number of hours the laborer worked on the project.

In-Kind Contribution

Facilities may also be developed by in-kind contributions which might consist of labor, equipment, materials and supplies donated to a local sponsor by private organizations or individuals.

In-kind contributions are eligible in a project only to the extent that there are additional development costs to be met by the federal assistance requested for that project. These must be fully described and explained in the project proposal.

The Division of Outdoor Recreation must agree on the local sponsor's method of valuing in-kind contributions of goods and services before the project approval for such contributions to be considered as part or all of the agency's matching share. Unexpected donations which occur after project approval may also be eligible for reimbursement if requested by the local sponsor and agreed to by the State. The procedures for determining the value of in-kind contributions from private sector sources are as follows:

1. Valuation of Volunteer Services. Volunteer services may be contributed by professional and technical personnel, consultants, and skilled or unskilled labor. Each hour of volunteered service may be counted as part of the local sponsor's matching share if the service is an integral and necessary part of an approved project. The records of in-kind contributions of personnel services must include time sheets containing the signature of the person whose time is contributed and of his or her supervisor verifying the record is accurate. The Donated Labor Form in the Appendix may be used for this purpose. The value for a person donating services should be figured at the same rate as that paid to an entry level laborer. Sponsors must contact the clerk-treasurer and ask for a letter specifying the amount paid to general laborers, and from that information calculate value of the donated service.

If the donor is professionally skilled in the trade or service to be provided, such as an electrician installing the electrical wiring or a plumber connecting the water supply, the rate this individual is paid for performing this trade may be claimed for matching assistance. A letter from the donor's employer, on company letterhead, must document this rate.

The method for determining donated labor must be calculated in the project application and documentation substantiating the wage rate to eventually be claimed must be provided.

2. Valuation of Donated Supplies, Materials, and Equipment. The value of donated supplies, materials and equipment which are permanently acquired should be reasonable and not exceed the current market prices at the time they are purchased for the project. Records of in-kind contributions of supplies and materials must indicate the fair market value by listing the comparable prices from other vendors or the amount paid by the donor.

3. Valuation of Loaned Equipment. Occasionally, equipment used in the construction of a facility will be loaned to the project sponsor. The sponsor may claim the value of the equipment use as an

in-kind contribution to the sponsor's share of project costs. The computation of equipment use rates is based on the Rental Compilation Guide for Construction Equipment, published by Associated Equipment Distributors, Department 615 West 22nd Street, Oak Brook, Illinois, 60521. Sponsors who do not want to purchase the guide may contact their State project officer for use of the guide in the Division of Outdoor Recreation's library, or contact a local contractor/renter for a listing of rates.
In order to receive reimbursement, project sponsors must supply documentation signed by the donor stating: the date(s); number of hours used per date; the type and model number of the equipment used; price per hour or day; and total cost claimed as a donation.

4. Valuation of Other Donations. Other donations received by the board specifically for and in direct benefit to the project may be accepted as part of a local agency's matching share, provided that the values of these donations are adequately supported and permissible under the law. Such donations must be reasonable and properly justifiable.

PROJECT REVIEWS

Another step in processing a project requires the submission of the project plans and specifications to various agencies for the appropriate reviews. This section discusses the major reviews required for development projects.

Fire Prevention and Building Safety

If a local agency proposes the development of a new building or alterations to an existing building, the plans and specifications for the new construction must be sent to the department of Fire Prevention and Building Safety for review at least one month before the bids are to be let or construction started. These plans are to be prepared by an architect or engineer registered in the State of Indiana, or under his or her direct supervision. Sponsors completing projects in Marion County must submit four sets of plans and specifications; all other sponsors need to submit only three. The Department will distribute copies of the plans to the State Board of Health if necessary. For more information, write to the following address:

Indiana Department of Fire and Building Services
402 W. Washington St., Rm. E 246
Indianapolis, IN 46204
Telephone: (317)232-6422

Applicants should expect to pay a fee for this review.

Environmental Management

If a local agency proposes construction of a sanitary sewer system, including additions or alterations to existing systems, plans and specifications must be submitted directly to the Indiana Department of Environmental Management for review and issuance of a construction permit. Such projects include public buildings, restrooms, dump stations, etc. The plans submitted must show all water supply lines and where those lines connect into existing systems. Copies of the permit application forms, and additional information related to these requirements may be obtained from:

Indiana Department of Environmental Management
Office of Water Management
105 S. Meridian Street, P.O. Box 6015
Indianapolis, IN 46206-6015
Telephone: (317) 232-8472

If there is a question as to whether a project will require a permit from the Department of Environmental Management, be sure to call before project construction begins. Applicants can expect to pay a fee to obtain the permit.

OTHER CONSIDERATIONS REGARDING DEVELOPMENT

In addition to the types of development costs, and methods of developing facilities, there are other factors which must be considered for a trails project. These considerations are explained below.

Overhead Utility Lines

Overhead utility lines are a safety hazard and a major detraction from the natural quality of many outdoor recreation areas and should be eliminated where possible.

Adaptation of Facilities for Persons with Disabilities

The Federal Government requires all facilities developed with assistance from the program must be designed in conformance with the Architectural Barriers Act of 1968. The Act ensures structures financed with Federal funds are designed and built to be accessible to persons with disabilities.

The Access Board is an independent Federal agency devoted to accessibility for people with disabilities. It operates with about 30 staff and a governing board of representatives from Federal departments and public members appointed by the President. Key responsibilities of the Board include:

- Developing and maintaining accessibility requirements for the built environment, transit vehicles, telecommunications equipment, and for electronic and information technology.

- Providing technical assistance and training on these guidelines and standards.

- Enforcing accessibility standards for federally funded facilities.

Board publications, including its guidelines and standards, can be downloaded from their website www.access-board.gov or they may be requested from:

The Access Board
1331 F Street, NW, Suite 1000
Washington, DC 20004-1111
(800) 872-2253 (v) (800) 993-2822 (TTY)
email: info@access-board.gov

Project sponsors should consider the needs of persons with disabilities in every aspect of a facility's design. Most of the adaptations are relatively inexpensive, especially if designed into the facility prior to initial construction. Some examples included are:

1. Curb cuts or ramps which provide easy access to sidewalks.

2. Gradually-sloped, hard-surfaced walkways leading to all facilities commonly visited by site users.

3. Water fountains, public telephones and similar facilities designed to permit use by persons with disabilities.

4. Hard-surfaced parking spaces with signs reserving them for persons with disabilities.

5. Firm and stable trail surfaces with proper slant and slope of trail.

Support Facilities Only

Projects which contain support facilities only will not usually be eligible for assistance through the RTP program. Parking lots, restrooms, and similar support facilities may be eligible at sites where trail facilities currently exist. The eligibility of these types of projects will be decided on a case by case basis.

SUMMARY OF CONSTRUCTION CONTRACT PROCEDURES

The following steps apply to all construction which by state and federal law must be competitively bid.

1. **Prepare the plans and specifications.** Include the Federal Contract Provisions and make sure all facilities are designed for handicapped accessibility.

2. **Submit the plans and specifications for review to the Department of Natural Resources, Division of Outdoor Recreation.** Allow 1 week for approval. As applicable, the following reviews must also be completed:

   a. U.S. Army Corps of Engineers. Allow 6 months for approval.
   b. Department of Natural Resources, Division of Water. Allow 2-3 months for approval.
   c. Department of Fire Prevention and Building Safety. Allow 1 month for approval.

3. **Advertise for bids after all approvals are received.** Bid advertisements must include a state ment informing bidders, that federal funds are being used on the project, and contractors will be required to comply with Federal Contract Provisions included in the specifications.

4. **Open bids, prepare the bid tabulation sheet and award the contracts.** If a firm other than the lowest bidder is to be selected request that the Division of Outdoor Recreation obtain federal approval prior to signing the contract. An explanation for accepting other than the lowest bidder must accompany the written requests. If the lowest bidder is to be selected, award and sign the construction contract. Send copies of the bid advertisements (proof of publication), bid tabulation sheet (summary of bids), and signed contracts to the Division of Outdoor Recreation.

5. **OFCCP Notification.** Within 10 days of awarding a contract, send the OFCCP Construction Notification Form to the Office of Federal Contract Compliance Programs. The OFCCP address is on the form.

6. **Preconstruction Meeting.**

   a. Hold a preconstruction meeting with the contractor(s) involved in the project. Reaffirm the contractor's obligation for complying with the Federal Contract Provisions in the specifications. Provide each contractor with a supply of CC-257 forms and a copy of the "Obligations of Federally Funded Construction Contractors and Subcontractors," if these pages were not included in the specifications.

   b. If a preconstruction meeting is not held, send each contractor a copy of the "Obligations of Federally Funded Construction Contractors and Subcontractors" and a supply of CC-257 forms. These should be sent by certified mail, return receipt requested.

7. **Notice to Proceed.** If the contractor is issued a "notice to proceed", send a copy of the notice to the Division of Outdoor Recreation.

8. **Proceed with Construction.** When approval has been given by the Division, you may proceed with the construction. If any change orders are to be given, request approval in advance and then send a copy of all such changes to the Division of Outdoor Recreation. The Division will conduct progress inspections of the development.

9. **Project Completion.** When the final billing is prepared, submit the Post Construction Certificate and "as built" site plans. The Division of Outdoor Recreation will conduct a final inspection of the project before processing the final reimbursement and closing out the project. Refer to Chapters 7 and 8 for final billing and close-out procedures.

10. **Project Sign.** It is recommended, but not required, that a permanent project sign acknowledging the Recreational Trails Program be posted at the project site.

Chapter 7

BILLING FOR FEDERAL REIMBURSEMENT

REIMBURSEMENT

The grant will be made available to the project sponsor on a reimbursement basis. In order to receive the money reserved for the project, a billing must be submitted to the Division of Outdoor Recreation. The Division will process this information and transmit the billing request to the U.S. Department of Transportation. It takes approximately four to six weeks for a reimbursement to be transmitted back to the project sponsor. A W-9 and Direct Deposit Authorization Form must be completed before a reimbursement can be issued.

CASH FLOW

Since the federal assistance is administered as a reimbursement process rather than a direct grant prior to undertaking the work, project sponsors must first pay the bills and then request reimbursement. During the more active periods of the project work, the sponsor may encounter times when the cash flow for expenses increases and the reimbursement checks are not returned in time to assist in the bill payments. In those instances, the sponsor may have to transfer funds among its own accounts or request a short-term loan from another account, such as the city utilities. These transfers are permissible; however, the clerk-treasurer or auditor must be aware of the proper Board of Accounts procedure to follow. The total amount of the project costs must be appropriated in the budget, although 80 percent of this amount can be shown as coming from federal funds rather than local sources.

INCURRED COSTS

To be eligible for matching assistance, the costs must be incurred within the project period. The local sponsor may not begin development until the project has been approved by the U.S. Department of Transportation. The only costs incurred before project approval eligible for retroactive reimbursement are those architectural, archaeological, and grant application preparation fees which were documented as preagreement costs in the project application. Other preagreement costs are not eligible for matching assistance.

Any costs incurred after the project has expired are also ineligible for assistance. Items added to a project by a change in scope amendment must be approved before costs may be incurred for the item.

INCOME FROM PROJECT SITES

Income earned by the project sponsor during the project period from sources, other than the intended use, will either be used to reduce the total project cost (thus reducing the grant by up to 50% of the earned income), or to do additional development at the site. Examples of such income include the sale or rental

of structures, and the lease or rental of the trail. An explanation of all anticipated types of income must accompany the project application.

According to federal regulations, user fees can be instituted to cover operation and maintenance costs only and not to produce extra revenue for the sponsor agency.

If the project sponsor feels it is necessary to collect a user fee for the facilities built in this project, a complete schedule containing all charges to be assessed against those using the facilities must be submitted for approval. Any net revenues accruing from the operation of the facilities must be separately accounted for and reserved by the project sponsor for the future operation, maintenance and/or expansion of the facility or, with the Department's approval, for construction of other recreational trail or trail head facilities. The agency must submit to the Division of Outdoor Recreation a yearly summary throughout the project period of fees collected and an explanation of how they were expended.

BILLING SUBMISSIONS

Separate billings must be submitted on each project for which a sponsor has a grant. These billings should be numbered consecutively for each project, beginning with number one. The federal amount of each billing should total at least 10 percent of the grant amount, with the exception of the final billing.

FINAL BILLINGS

Billings may be submitted for up to 95 percent of the project costs prior to the final billing. Reimbursement for 5 percent of the project cost is withheld until the project is completed and a final inspection is made by the Division of Outdoor Recreation staff.

One copy of the signed Post Construction Certificate (found in the Appendix) must accompany the final billing for development projects. This form is completed by the supervising architect or engineer on the project. If the project did not involve a consulting architect or engineer, then the county or city engineer should inspect the project and sign the Post Construction Certificate. The final billing should be submitted to the Division within 60 days of the project completion or expiration, whichever comes first. Proper encumbrance language should be attached to the deed and submitted with the final billing information.

Project sponsors should expect the final billing to take longer to process than progress billings, and should arrange their financing accordingly. An "as built" site plan which clearly delineates the completion date, dimensions of the site, location of federally assisted development must be submitted with the final billing. This site plan will serve as a permanent record of federal assistance at the site, and thus be agreed to by the DNR and the Applicant. The Division of Outdoor Recreation staff will work with the Applicant in documenting the "as built" site plan.

BILLING DOCUMENTATION

All billings are submitted on the Indiana Local Agency Billing Form, accompanied by various documents depending upon the type of project. One copy of this billing form is submitted with each reimbursement request. The form is located in the Appendix.

A billing for **acquisition costs** should include the following items:

1. Claim Vouchers. One copy, front and back of itemized claim vouchers. Claim vouchers must be certified (signed) by the authorized board members and the proper city and county officials. The project name and number should be specified on the claim vouchers. The warrant number of the check payment should also be entered on the vouchers.

2. Cancelled Checks. One copy, front and back of the cancelled checks corresponding to each claim voucher.

3. Warranty Deeds. One copy of the recorded warranty deed for each parcel transferring title land or easement restrictions to the grantee.

4. Relocation Information. One copy of the relocation forms and supporting data. Special forms for computing the relocation costs are available from the Grants Staff.

5. Closing Statements. One copy of the closing statement or other documentation showing that incidental expenses were paid by the grantee whether or not federal reimbursement is being requested.

A billing for **development costs** should include the following items:

1. Invoices. One copy of invoices from firms or individuals performing work or supplying materials or equipment for the project. The project name and number should be specified on invoices. The eligible costs should be identified if the invoices include items which are not a part of the project.

2. Claim Vouchers. One copy, front and back of itemized claim vouchers corresponding to the invoices. The claim vouchers must be certified by the authorized sponsoring agency members or the proper city and county officials. The project name and number should be specified on the claim vouchers. If the claim voucher contains items which are not part of the federal project, all eligible items need to be identified. The eligible site should be designated with the project number. This designation should be made at the time the claim voucher is prepared Park and Recreation boards, cities and counties, and not-for-profit agencies are tax exempt and therefore, cannot be reimbursed for payment of any sales tax. If a sales tax is inadvertently included in a vendor's invoice, it should be identified as an ineligible cost and deducted from the billing.

3. Cancelled Checks. One copy, front and back of the cancelled checks corresponding to the claim voucher. If the check includes payments of ineligible items, the amount included in the billing should be written on the check and labeled as eligible costs.

4. Force Account Information. If force account costs are claimed in a development billing, the following types of information are required.

   a. Payroll. One copy of the agency'spayroll for the time period for which force account costs are being claimed. The names of those individuals for which force account costs are claimed should be circled or underlined.

b. Cancelled Checks. One copy, front and back, of the cancelled checks corresponding to the force account items. The amount paid for eligible costs should be indicated on the checks by writing across the checks "Eligible Costs" and the amount.

c. Force Account Labor Form. One copy of the form, which includes a statement that the individuals, for which force account costs are claimed, actually performed the listed work. This statement should be signed by both the employee involved and the park superintendent, appropriate city or county official, or agency director.

5. In-kind Contributions. The following documentation is required for each of these types of contributions:

a. Donated Labor. One copy of the donated Labor Form (in the Appendix) must be completed for each person donating labor for construction and signed by the donor and agency supervisor. The per hour value of the labor donations will usually have been documented in the project application by clerk/treasurer's and/or employers' letters as explained in Chapter 2. If a skilled construction person donates time who has not previously provided evidence of his or her per hour wage rate, it should be submitted with the billing.

b. Donated Materials. A letter from the donor, which briefly describes the items and indicates they were given for the project, needs to be provided. To establish the value of the gifts, quotations of prices for similar materials should be provided from two local commercial suppliers, the lower of the two quotations will establish the donated value. Donated materials from a federal source are ineligible as a cost share.

c. Donated Equipment. A letter from the donor, which briefly describes the equipment and its use in the project construction must be submitted. For equipment to be installed at the site, price quotations from suppliers of similar equipment will be the value for billing purposes. In the case of construction equipment, some types of equipment will be valued on a per hour rate according to the Rental Compilation Guide described in Chapter 6. A copy of the page from the Guide should be included in the billing with appropriate equipment and rate circled. If the equipment is not in the Guide, quotations for local rental rates from other suppliers and the donor may be used to determine the donated rate per hour. The donor's letter for construction equipment needs to list the dates, hours and types of work performed for the project. Donated federal equipment cannot be used as a cost share.

d. Donated Cash. Since these contributions are used to pay expenses for a project, the regular payment documentation suffices for cash gifts.

BILLING ASSEMBLY

To speed the billing process, the billing documents should be compiled in an orderly manner. One copy of the signed Indiana Local Billing Agency Form, claim vouchers, cancelled checks, and invoices are required. It is recommended the invoice, claim voucher and cancelled check for each payment be stapled together separately, along with other applicable construction documents as outlined earlier. For donated elements of the project, each contribution should be listed on the billing form and the supporting evidence of value and donation indicated above should be stapled together separately.

These supporting materials for payments and gifts should be compiled into one stack with the billing form on top. A transmittal letter should identify any items on claims that were deducted due to ineligibility and provide a short summary of the project's status to date.

Although a claim or invoice may be familiar to the project sponsor, it may be highly questionable for processing by the State. Claims or invoices marked simply "paint", "lumber", "plumbing supplies" or claims which are illegibly written will be returned for further explanation. Construction materials need to be properly identified with a project item such as "paint for signs". Failure to identify all eligible costs may result in billing process delay. In most cases, questionable billings will be returned for clarification.

STATE PROCESSING OF BILLINGS

Once the billing is received by the Division of Outdoor Recreation, all the documentation is reviewed. This process usually takes between seven and fourteen days, after which the reimbursement is requested from the Federal Government. This transaction takes approximately two weeks. Once the money is transferred from the federal government, the state auditor will issue a check payable to the project sponsor. The entire process will take approximately 4 to 6 weeks.

BILLING CHECKLIST

The agency president or project officer will want to review the billing to make sure it has been properly assembled. The checklist has been developed to aid this review.

____1. One copy of the Indiana Local Agency Billing Form.

____2. One copy of the invoices for development costs.

____3. One copy, front and back, of itemized claim vouchers.

____4. One copy, front and back, of cancelled checks.

____5. One copy of the force account information, if applicable.

____a. Payroll
____b. Cancelled Checks
____c. Force Account Labor Form

_____6. One copy of the in-kind contribution information, if applicable.

____a. Donor's Letter or Donated Labor Form
____b. Evidence of Value

_____7. One copy of the Post Construction Certificate, if a final billing.

_____8. A short summary of the project's status to date.

Chapter 8

PROJECT COMPLETION & FUTURE RESPONSIBILITIES

PROJECT COMPLETION

The date of completion is the date when all work in a project is completed, or the date the project expires, whichever comes first. The project sponsor should submit the final billing for the project within sixty days of the date of completion.

Upon notification of project completion, the Division of Outdoor Recreation staff will conduct a final inspection of the project site. An "as built" site plan must be prepared and submitted along with other closeout documents. The plan must identify the work funded by the grant, completion date, and boundaries of the site. In a few cases, there may be no changes from the site map submitted with the application other than labeling it with the completion date. The Division of Outdoor Recreation may make additional notations or revise information on the map. When the final version has been agreed upon by all parties, a copy will be provided to the local sponsor.

This map becomes part of the permanent records of the DNR. It is also to be kept permanently in the project sponsor's public property records and available for public inspection with the project agreement. The site must be identified as having been developed with assistance from the Recreational Trails Program, and the project must remain open to the public for the useful life of the facility if RTP monies were used for development and for perpetuity if RTP monies were used for land acquisition.

PERMANENT SIGN

A sign acknowledging the program to be erected and permanently displayed at the project site upon completion is recommended (not required). The sign should give adequate recognition to each agency involved in the development of the particular project site and indicate the project was a cooperative project which was partially funded by the Recreational Trails Program. The cost of constructing the sign is eligible for matching assistance and should be included within the cost breakdown in the project application. An example is included in the appendix.

RETENTION OF RECORDS FOR AUDIT

In addition to the copies submitted to the State, all construction plans, specifications, bid advertisements and tabulations, contracts, and change orders must be retained by the project sponsor for a period of three years, commencing after the final reimbursement has been received, or until audit findings have been resolved. All accounting records and project data are subject to the State and Federal audit.

The Federal Government reserves the right to question any item for which reimbursement was received until audit findings have been resolved. All agency files are subject to audit by the State Board of

Accounts, which reviews all Indiana governmental fiscal procedures for state and federal compliance.

INSPECTIONS

Upon project completion, a final inspection is made by the Division of Outdoor Recreation prior to the authorization of the final reimbursement. Completed projects will be inspected periodically by the Division of Outdoor Recreation. Copies of this report will be sent to the project sponsor. These inspections are made to ensure that: the site is being used for the purposes intended; the site is attractive and properly maintained; the area is accessible and open to the general public; the site has a Recreational Trails Program sign; and there appears to be adequate staff to ensure proper safety and servicing of the facilities. It must be emphasized that neither the State of Indiana nor the Federal Government desires to become involved in the daily operation and maintenance of a funded facility. The operation and maintenance requirements are no more restrictive than those required by the local taxpayers or users for the facility they helped to finance.

OPERATION AND MAINTENANCE

Property developed with federal assistance must be properly operated and maintained for general public use. The site should appear attractive and inviting to the public. Proper sanitation and sanitary facilities should be maintained in accord with applicable health standards. The site should be kept safe for public use. Buildings, roads, and other improvements should be kept in reasonable repair throughout their lifetime to prevent undue deterioration and to encourage public use. Evidence of vandalism should be repaired as quickly as possible.

PUBLIC USE AND FEES

The facility should be kept open for general public use at reasonable hours and times of the year according to the type of area or facility. Property developed with federal assistance shall be open to entry and use by all persons regardless of race, religion, color, sex, national origin, age, disability, or place of residence.

The site cannot be restricted for use only by community or county residents. If trails are partially funded by local tax revenues, a higher user fee may be charged to out-of-city or out-of-county residents. Where there is no charge for residents, but a fee is charged to nonresidents, nonresident fees cannot exceed fees charged for residents at comparable State or local public facilities. Reservations, membership or annual permit systems available to residents must also be available to nonresidents and the period of availability must be the same for both. These provisions apply only to general park entrance fees as described in the Project Agreement.

If fees are charged to use federally funded sites or facilities, the agency must submit a complete schedule of all charges to be assessed for those using the facilities to the Division of Outdoor Recreation.

Project sponsors may impose reasonable limits on the type and extent of use of areas and facilities developed with federal assistance when such a limitation is necessary for maintenance or preservation. Thus, limitation may be imposed on the number of persons using an area or facility for the type of users. All limitations shall be in accord with the applicable grant agreement and amendments. Permits for the

use of facilities must be in accord with federal nondiscrimination provisions.

FUTURE NONDISCRIMINATION AUDITS

The Department of Transportation, Office for Equal Opportunity periodically conducts desk and on-site audits of agencies which have received federal assistance. The reviews involve compliance with Title VI of the Civil Rights Act and Section 504 of the Rehabilitation Act, as explained in Chapter 3. An audit may take place long after a project has been completed, since grant recipients must comply with the nondiscrimination provisions in perpetuity. Project sponsors are responsible for voluntarily complying with any audit findings which need to be resolved.

RETENTION OF THE SITE FOR THE USE INTENDED

At the time of project approval, the project sponsor will sign an agreement with the Indiana Department of Natural Resources' Division of Outdoor Recreation concerning the use, operation and maintenance of the facilities developed with federal funds. When a project sponsor feels the facility has reached the end of its useful life the DNR must be contacted. The Department staff must concur that the facility is obsolete.

This agreement will state that the facilities developed with federal assistance must remain open for general public use and will be operated and maintained according to federal standards. If RTP monies are used for land acquisition the land must remain in public trail use for perpetuity. If RTP monies are used for development the site and facility must remain in public trail use for 25 years. The useful life of the facility will be determined as described earlier.

FUTURE RESPONSIBILITIES

Any property developed with these funds shall not be wholly or partly converted to other than public trail use during the following time period. In the case of a development only project, all federal responsibilities end when the facilities have been determined by the project sponsor, and the IDNR to be obsolete, therefore terminating the project agreement.

LEASING OF PROJECT SITES

A project sponsor may provide for the operation of a site developed with federal assistance by leasing the facility to a private organization or individual. The project sponsor must irrevocably agree to terminate the lease should public use of the leased facility be restricted.

All lease documents for the operation of RTP assisted sites by private organizations or individuals must address the following:

1. In order to protect the public interest, the project sponsor must have a clear ability to periodically review and if necessary terminate the lease if the terms and provisions of the grant agreement, including standards of maintenance, public use and accessibility are not met.

2. The document should clearly indicate that the leased area is to be operated by the lessee for public

trail purposes in compliance with provisions of the Recreational Trails Program and implementing guidelines.

3. The document should require that the area be identified as being open to the public and operated as a public facility in all signs, literature, and advertising and the lessee be identified so the public will not be misled into believing the area is private. Signs should be posted which identify the facility as being open to the public.

4. The lease must include requirements that the lessee comply with Title VI of the Civil Rights Act and Section 504 of the Rehabilitation Act in providing equal opportunity for public use and in the lessee's employment practices. The site must be maintained for access to persons with disabilities under the Architectural Barriers Act.

All leases must be approved by the Division of Outdoor Recreation prior to their execution.

APPENDIX

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Indiana Department of Natural Resources
Assurance of Compliance
"Recreational Trails Program"

Project Name:_____ Project Number_____
(assigned later)

In Submitting this Assurance of Compliance and acting for and in behalf of _____ (hereafter referred to as "Applicant") and its assignees and successors, and pursuant to the attached resolution, the following assurances are now given:

1. The Applicant is legally established, possesses the authority to apply for this grant, has passed a resolution authorizing the filing of the application, has the ability to and will operate and maintain the property described in the project agreement, has sufficient funds to meet the non-federal share of the project cost and upon project completion sufficient funds shall be made available to operate and maintain the site and facilities consistent with Recreational Trails Program, the rules and regulations of the Federal Highway Administration, (hereafter referred to as the "Federal Agency") Indiana Department of Natural Resources (hereafter referred to as "State Agency"), and other federal, state and local regulations for such facilities. The project site and facilities shall be open to the public during reasonable hours.

2. The project site is currently (or will be upon acquisition) under the control and tenure of the State Agency or the Applicant. The Applicant will not dispose of or otherwise encumber its title or other interest in the site and facilities without the prior approval of the State and Federal agencies. The Applicant shall notify the State agency, in advance, of any proposals to use the property or facilities for purposes other than those described in the project application. Facilities renovated or constructed with federal assistance must remain for public use through the "useful life of the facilities," as mutually agreed upon by the Applicant, State, and Federal agencies.

3. If the Applicant charges a general entry fee, it must submit to the State Agency, for prior approval, any fee proposal for the federally funded project and annual reports of the revenues and their expenditures thereafter.

4. The project will commence within a reasonable time after project approval and will be completed with reasonable diligence within the project agreement period. Any changes that alter the cost or scope of the project, use of space, or functional layout will be submitted to the State agency for approval. The Applicant will furnish progress reports and other such information as the State agency or Federal agencies may require. In the event that the project cannot be completed according to the plans and specifications, the Applicant shall bring the project to the point of usefulness agreed upon by the Applicant, State and Federal agencies. The Applicant shall use all funds received from the Federal agency, solely for the project described in the agreement.

5. The Applicant will not enter into a contract for the project until grant requirements concerning construction contracts have been met. The Applicant will provide and maintain competent architectural and engineering supervision to insure that the work conforms with the approved plans and specifications and is safe for public use. The Applicant will insure that contractors will comply with all nondiscrimination laws. The Applicant will comply with all applicable federal and state laws concerning public works and procurement, including the following:

a. Competitive bidding and Construction Contract Requirements as outlined in OMB Circular A-102.
b. Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330).
c. The Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented by the Department of Labor Regula tions. (29 CFR, Part 3)
d. Stevens Amendment to the Department of Defense, Appropriations Act.
e. Certification Regarding Debarment and Suspension.
f. Executive Order 11246, Equal Opportunity Employer

6. The Applicant insures that all facilities, activities and employment practices, in its jurisdiction, are available to

all persons on an equal opportunity basis regardless of their race, color, national origin, sex, age, or handicap. This requirement is pursuant to all federal, state and local nondiscrimination laws and includes the following:

a. Age Discrimination Act of 1975 (42 U.S.C. 6101), as amended (Title III of P.L. 94-135.)
b. Title VI of the Civil Rights Act of 1964 (P.L. 88-352, 42 U.S.C. Sec.. 2000d to 2000d-4).
c. Executive Order 11246, Equal Employment Opportunity, as amended by Executive Order 11375.
d. Architectural Barriers Act of 1968 (P.L. 90-480).
e. Section 504 of the Rehabilitation Act (P.L. 93-112), as amended (P.L. 95-602).

7. The Applicant will insure that it will comply with Executive Order 12432, Minority Business Enterprise Development, it will comply with the minimum wage and maximum hours provisions of the federal Fair Labor Standards Act (P.L. 95-151, 91 Stat.. 1245) as they apply to hospital and educational institution employees of state and local governments; it will comply with the provisions of the Hatch Act (5 U.S.C. 1501-1508), as amended which limits the political activity of employees; it will establish safeguards to prohibit employees from using their positions for a purpose that is or give the appearance of being motivated by a desire for private gain for themselves or others; it will insure that no person performing service for the Board has financial or personal interest other than employment; it will insure that no member or delegate of Congress will benefit from any share of this agreement; will be responsible for enforcing the "conflict of interest" provision.

8. The Applicant will comply with applicable regulations, policies, guidelines, and requirements including Executive Order 12372, Clearinghouse Review, and Office of Management and Budget Circulars A-102 (Uniform Administrative Requirements for Grants Section to State and Local Governments), A-87 (Cost Principles for State and Local Governments) and A-128 (Audits of State and Local Governments), as they relate to the application, acceptance and use of federal funds for this project.

9. The Applicant agrees to protect and preserve the environment by adhering to the following laws:

a. The Clean Air Act, as amended (42 U.S.C. 7609),
b. The Clean Water Act 933 U.S.C. Sec.. 1288, 1314, 1341, 1342, 1344)
c. Coastal Zone Management Act of 1972 (P.L. 92-583) 16 U.S.C. Sec. 1451, 1456)
d. The Endangered Species Act of 1973 (P.L. 16 U.S.C. Sec. 1531 et seq.)
e. Executive Order 112185, Conservation of Petroleum and Natural Gas
f. Executive Order 11288, Prevention , Control and Abatement of Water Pollution
g. Executive Order 11296, Evaluation of Flood Hazard in Locating Federally Owned or Financed Buildings, Roads, and Other Facilities and in Disposing of Federal Lands and Properties.
h. Executive Order 11987, Exotic Organisms
i. Executive Order 11988, Floodplain Management
j. Executive Order 11514, Protection and Enhancement of the Natural Environment, as amended by E.O. 11991
k. Executive Order 11990, Protection of Wetlands
l. Federal Act for Protection and Restoration of Estuarine Areas (P.L. 90-454)
m. Federal Environmental Pesticide Control Act of 1972 (86 Stat.. 973)
n. Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 135 et seq.)
o. The Fish and Wildlife Coordination Act (16 U.S.C. Sec. 661, 662)
p. Flood Disaster Protection Act of 1973 (P.L. 93-234), (87 Stat.. 975), (12 U.S.C. Sec. 24, 1701-1 Supp.), (42 U.S.C. Sec. 4001 et seq.)
q. National Environmental Policy Act of 1969, as amended (P.L. 91-190, 42, U.S.C. 4321 et seq.)
r. The Rivers and Harbor Act of 1899 (33 U.S.C. Sec. 401 et seq.)
s. Wild and Scenic Rivers Act of 1968 (P.L. 90-542) 16 U.S.C. 1274 et seq.)

10. The Applicant will insure that the project site(s) or facilities are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities, and that it will notify the State and Federal Agencies upon the receipt of any communication from the EPA indicating that a project site or facility is under consideration for listing by EPA.

11. The Applicant will comply with national policies relating to the preservation of historical and cultural resources pursuant to the following laws:

a. The Archaeological and Historic Preservation Act of 1974, as amended (P.L. 93-291, 16 U.S.C. 469a-1)
b. Archaeological Resources Protection Act of 1979 (P.L. 96-95)
c. The Antiquities Act of 1906 (16 U.S.C. Sec. 431)
d. Executive Order 11593, Protection and Enhancement of the Cultural Environment, (16 U.S.C. 470)
e. National Historic Preservation Act of 1966 (80 Stat.. 915, 16 U.S.C. 470)
f. National Historic Preservation Act Amendments of 1980 (P.L. 96-515, 94 Stat.. 2987)

12. The Applicant will comply with the Power Plant and Industrial Fuel Use Act of 1978 (P.L. 95-620) and the Federal Highway Act of 1973 (P.L. 93-87).

13. The Applicant will give the State of Indiana, Secretary of Transportation, Comptroller General of the United States and any of their authorized representatives, access and right to examine all records, books, papers, and documents related to the project for the purpose of making audit, examination, excerpts and transcripts. The Agency will retain supporting documents, statistical records, and all other records pertinent to this grant for a minimum of three years or until audit findings are resolved. The Federal and State agencies may inspect the project site or facilities and the Applicant agrees to comply with the recommendations outlined in the inspection reports. The Applicant agrees to keep a permanent record of the project in its county public property records.

14. The Applicant may request withdrawal of the project prior to the expenditure of any grant funds. After expenditure of grant funds, the agreement may be rescinded, modified, or amended only by written mutual agreement of the Applicant and State Agency. Failure of the Applicant to comply with the terms of the project proposal or the intent of the program may cause suspension of all obligations and a return of any monies received to the State of Indiana. Further, that in the event that any of said funds are required to be repaid to the Federal Government, the Applicant will indemnify the State of Indiana from the obligation of such repayment.

15. The Applicant agrees to hold harmless, indemnify and defend the State of Indiana, its agencies, officers and employees from all claims, demands, suits and judgments which may result from any loss or damage to property or injury or death of any person on the construction site or in any other way connected with the issuance of this grant.

16. The Applicant shall comply with all applicable laws, rules, and regulations and of the further terms and conditions specified by the Federal and State Agencies.

Signed this _____day of _____, 20__

_____

President's Signature

ATTEST:

_____

Secretary's Signature

U.S. DEPARTMENT OF TRANSPORTATION
ASSURANCE OF COMPLIANCE
(TITLE VI, CIVIL RIGHTS ACT OF 1964)

Name of Applicant Recipient _____
(hereinafter called "Applicant-Recipient")

HEREBY AGREES THAT IT will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements imposed by or pursuant to the Department of Transportation Regulation (49 CFR 27) issued pursuant to that title, to the end that, in accordance with Title VI of the Act and the Regulation, no person in the United states shall , on the ground of race, color, or national origin be excluded from participation, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant-Recipient receives financial assistance from the Federal Highway Administration and hereby gives assurance that it will immediately take any measures to effectuate this agreement.

If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Applicant-Recipient, or in the case of any transfer of such property, any transferee for the period during the real property or structure is used for a purpose involving the provisions of similar services or benefits. If any personal property is so provided, this assurance obligates the Applicant-Recipient for the period during which it retains ownership or possession of the property. In all other cases, this assurance obligates the Applicant-Recipient for the period during which the Federal financial assistance is extended to it by the Federal Highway Administration.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other Federal financial assistance were approved before such date. The Applicant-Recipient recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this assurance. This assurance is binding on the Applicant-Recipient, its successors, transferees, and assignees, and the person or persons whose signature appear below are authorized to sign this assurance on behalf of the Applicant-Recipient.

_____ By_____
Applicant-Recipient President's Signature

_____ Attest _____
Secretary's Signature

_____

_____ Dated _____
Applicant-Recipient's Mailing Address

Civil Rights Act of 1964
Title VI Guidelines

1. GENERAL

A. Authority • These guidelines are issued under authority of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et. seq; Executive Order 11764; Department of Justice Regulations 28 CFR 42; and Department of Transportation Regulations 49 CFR 17.

B. Purpose • (49 CFR 17.1; 28 CFR 42.401) These guidelines provide detailed information on the compliance requirements of Title VI of the Civil Rights Act of 1964 to the end that no person in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination with respect to federally assisted programs administered by the Department of Transportation. Included in the guidelines are procedures for filing complaints and the responsibilities of the Department and its grantees in attaining compliance with the Act.

C. Definitions • (49 CFR 17.12; 28 CFR 42.402)

(1) "Act" means the Civil Rights Act of 1964, and any guidelines, rules, and regulations of the Department effectuating Title VI of this Act.

(2) "Applicant" means a qualified entity which submits an application for assistance under the National Recreational Trails Act.

(3) "Department" means the U.S. Department of Transportation.

(4) "Director" means the Director of the Office for Equal Opportunity of the Department.

(5) "Federal Financial Assistance" means (a) the grants and loans of Federal Funds, (b)grants or donations of Federal property and interests in property, (c) the detail of Federal personnel, (d) the sale or the lease of, or the permission to use (on other than a casual or transient basis) Federal prop-erty or any interest in such property without consideration or at a nominal consideration or at a consideration which is reduced for the purpose of assisting the recipient in recognition of the public interest to be served by such sale or lease to the recipient, and (e) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

(6) "Primary Recipient" or "Grantee" means a State that is authorized to contract for or extend Federal financial assistance to itself or to a subrecipient for the purpose of carrying out a program of the Department.

(7) "Subrecipient" or Subgrantee" means any political subdivision or instrumentality of a State, public or private institution, or any entity or individual to whom Federal financial assistance is extended.

(8) "Compliance Reviews"

(a)"Post Award Compliance Review" means an onsite, comprehensive assessment of the Title VI compliance of an agency that has received Federal Financial assistance from the Department. Such reviews are designed to determine if programs and activities of the agency are administered and operated in compliance with the Act.

(b) "Follow-up Compliance review" means a follow-up examination of specific aspects of a grantee's. Federally assisted program or activity to determine whether the grantee has resolved reported conditions of noncompliance.

(9) "Compliance Officer" means an Equal Opportunity Specialist assigned the responsibility of conducting Title VI Compliance Reviews.

(10) "Covered Employment" means employment practices covered by Title VI.

D. Covered Employment • (49 CFR17.3(6)(c); 28 CFR 42.409) Where employment practices directly affect services to beneficiaries under a federally assisted program to which these guidelines apply, that recipient's or subrecipient's employment practices shall be subject to the nondiscrimination provisions of the Act. Enforcement of the Act with respect to covered employment practices shall not be superseded by State or Local merit systems relating to such employment practices.

2. COMPLIANCE RESPONSIBILITIES

A. OEO Responsibility • The Office for Equal Opportunity (OEO), as authorized by the Secretary of Transportation, shall assure that no person participating in a program funded in whole or in part by the Federal Highway Administration (FHWA) subjected to discrimination on the basis of race, color, or national origin. This shall be accomplished through continuing policy direction, oversight, and compliance reviews of selected recipients and subrecipients as well as technical assistance and program evaluation of FHWA Regional Offices.

B. FHWA Responsibility • The Federal Highway Administration as primary grantor of federal assistance, has direct responsibility for assuring that the State and subrecipients are in compliance with the provisions of the Act.

The FHWA shall execute its responsibilities through:

(1) providing guidance to the States in establishing an open project selection process to allocate federal assistance among applicants,

(2) notifying (OEO) of any inconsistencies with Title VI having arisen from onsite facility reviews conducted by FHWA personnel, and

(3) cooperating with OEO toward seeking a satisfactory resolution of any inconsistencies found, including efforts toward seeking voluntary compliance enforcement procedures and follow-up reviews.

C. Primary Recipient Responsibility • (49 CFR 17.4) (28 CFR 42.407) The states, as primary recipients of assistance are responsible to give reasonable assurance that the applicant and all subrecipients will comply with the requirements imposed by Title VI, including methods of administration which give reasonable assurance that any non-compliance will be corrected. This shall be accomplished through:

(1) establishing an objective project selection process,

(2) providing the State Civil Rights Agency or Authority (if it exists) the opportunity to comment upon applications submitted,

(3) notifying OEO of any inconsistencies with Title VI having arisen from onsite facility reviews

conducted by State Personnel (where the inconsistency cannot be corrected at the State level),

(4) cooperating with OEO toward seeking a satisfactory resolution of any inconsis- tencies found, including efforts toward seeking voluntary compliance, enforcement procedures and follow-up reviews, and

(5) assuring that each subrecipient/applicant is provided a copy of these guidelines.

D. Coordination of Responsibility • The Office for Equal Opportunity will periodically conduct compliance reviews of the State's administration of federal programs, including the compliance of subrecipients with the Act. OEO and FHWA will provide the State, subrecipients and applicants for assistance with such technical assistance as necessary to reasonably assure compliance with the Act. Federal, State and local officials are expected to cooperate fully toward securing voluntary compliance where deficiencies in program or facilities may be found.

3. TITLE VI COMPLAINT PROCEDURES

A. General • (28 CFR 42.408) (49 CFR 17) This section prescribes the procedures of the Department and its primary recipients with respect to the prompt processing and disposition of complaints.

B. Who May File • Any person, or specific class of persons, who believes that he or she has been subjected to discrimination as prohibited by the Act may personally, or by representative, file a complaint.

C. How, When, and Where to File • (28 CFR 42.408) All complaints filed under Title VI must be in writing, and must be signed by the complainant and/or the complainant's representative. In the event that a complaint is made in other than written form, the official receiving the complaint must instruct the complainant to reduce the complaint to writing and submit it to the OEO, Department of Transportation for prompt processing. The complaint should contain: the name, address and telephone number of the complainant; the name and address of the alleged discriminatory official or recipient; the basis of the complaint and the date of the alleged discrimination.

Complaints must be filed within 180 days from the date of alleged discrimination. The time limit for filing may be extended by the Director of the Office for Equal Opportunity. Complaints should be filed directly with the Office for Equal Opportunity, U.S. Department of Transportation, Washington D.C. 20240. In the event that complaints are received by FHWA and/or recipients, such complaints shall be forwarded to the Office for Equal Opportunity within 10 days.

(1) Public Notification of Right to File a Complaint. The FHWA shall be responsible for ensuring that its recipients informthe public of their right to file a complaint. Where primary recipients extend Federal assistance to subrecipients, the primary recipient shall also be responsible for ensuring that this standard is met. (28 CFR 42.405).

(a) This is to be accomplished by distribution and display of posters explaining the nondiscrimination provisions to Title VI as they apply to State and subrecipient recreation programs.

(b) FHWA and its recipients shall also include information on Title VI requirements, complaint procedures, and the rights of beneficiaries in handbooks, manuals, pamphlets, and other materials which are ordinarily distributed to the public to describe the federally assisted programs or activities. Where a percentage of the population in excess of 10% (or 5,000) speaks a language other than

English, the above described materials should be prepared in the appropriate language.

D. Complaint Processing • (28 CFR 42.408) (49 CFR 17.6)

(1) Acknowledgment of Complaint. The Office for Equal Opportunity shall acknowledge in writing, the receipt of every complaint within 10 days of reception. Acknowledgement letters shall be sent to the complainant, FHWA and the primary recipient.

(2) Complaints Log. Recipients shall maintain a log of any Title VI complaint received. Moreover, OEO shall maintain a log of all such complaints received for processing. The purpose of the complaint log is to provide essential information and data regarding each complaint being processed by the Department. Each log must contain a case number, the complainant's name, address, and telephone number. The log must also include a description of the complaint; the date the complaint was filed and investigation completed; the disposition of the case; all other information pertinent to the complaint. (28 CFR 42.408).

(3) Routing responsibilities. When FHWA or any primary or subrecipient receives a complaint, the office in receipt must log in the complaint, note the date of receipt on the complaint and maintain a confidential copy for its records. The original complaint document must be forwarded to the Office for Equal Opportunity within 10 days of receipt pursuant to Section 650.9.3C. OEO shall acknowledge its receipt and notify the recipient, as well as FHWA, of the assigned case number.

(4) Determination of Jurisdiction. Upon receipt of a complaint by the Department, the Office of Equal Opportunity shall determine whether the complaint comes within the purview of the Act. When the Department lacks jurisdiction over a complaint, the Director shall refer the complaint to the appropriate State or Federal Agency that has responsibility for addressing the concern. Upon receipt of such a complaint, the OEO shall notify the FHWA, recipient and complainant's representative of its actions.

E. Complaint Investigations • (49 CFR 17.6(d))

(1) Scope. Investigation shall be confined to issues and facts relevant to allegations in the complaint.

(2) Confidentiality. Complainants shall be offered a pledge of confidentiality as to their identity. This offer, if accepted, shall be binding on the investigator. Complainants shall be interviewed at all times in places which will not create risk of compromising confidentiality. Except where essential to the investigation, the investigator shall not reveal the identity of the complainant to the respondent or to any third party. If the investigator determines the necessity to reveal the complainant's permission to do so must be secured.

(3) Conduct of Investigation. Upon determination of jurisdiction by the Department, the Office for Equal Opportunity shall promptly initiate an investigation of the matter.

(4) Investigation Reports. In all instances where an investigation has been conducted, an investigation report shall be prepared, with findings and recomendations. The complainant and the agency against whom the complaint is made shall be notified in writing of the disposition of the matter.

(5) Investigation by Primary Recipients. The Director, within 10 working days of the receipt of a complaint, may authorize a primary recipient to investigate the complainant and make findings and recommendations subject to OEO approval. Upon delegation of authority by the Director, a primary recipient may investigate complaints filed against subrecipients. The investigative report will be provided to OEO within 30 days of authorization to investigate. The primary recipient may not

investigate any complaint in which it, or any of its officers or employees is implicated. If at any time prior to its completion, it is determined that investigation of a complaint has been improperly conducted, the Director may withdraw the primary recipient's authority to investigate. If the complainant is dissatisfied with the findings of the investigation, the complainant may appeal the findings to OEO for its decision within 5 days of the complainant's review.

4. COMPLIANCE REVIEW PROCEDURES

A. General • 928 CFR 42.407) (49 CFR 17.6a) This section prescribes the types of compliance reviews which will be conducted periodically to ensure that the Department's public programs are operated in compliance with the Act. Such reviews will cover FHWA, primary recipient and subrecipient operations.

B. Compliance Review Responsibilities • (28 CFR 42.411) (49 CFR 17.5) The Office for Equal Opportunity shall periodically conduct onsite compliance reviews and desk audits of FHWA primary recipients and subrecipients. Moreover, primary recipients shall review the operations of its subrecipients. These reviews shall be accomplished in accordance with Section 650.9.4E. The Office that conducts the compliance review shall prepare and issue a report on its findings and recommendations to the reviewed entity. Often the outside review is completed to assist the review entity in voluntarily complying with the Act; however, remedial action must be initiated by the recipient or subrecipient to correct the deficiency(s). Where conditions of noncompliance have been found, such conditions must be resolved by the recipient within a reasonable period of time. A copy of the report and related correspondence shall be kept on record by the office performing the review for a period of 3 years. This information shall be made available to the OEO upon request.

C. Determinations of Compliance • All determinations of compliance with the Act shall be made by the OEO. It is expected that FHWA will review Title VI aspects of the program in conjunction with ongoing program reviews.

D. Selection Criteria •

(1) Post Award Reviews. In the selection of recipients and subrecipients for post- award review, OEO shall base selections on such factors as:

(a) available compliance information collected from previous reviews;

(b) frequency of past compliance reviews conducted of the recipients;

(c) community racial patterns;

(d) Title VI complaints of alleged discrimination;

(e) size of the federally assisted program or activity; and

(f) amount and type of Federal assistance to the recipient.

E. Compliance Reviews •

(1) Compliance Reviews of Primary Recipients by OEO. Recipient compliance shall be based on the following:

(a) Whether the primary recipient, in allocating Federal funds, has considered the criteria set out in Section 650.9.2C in meeting the nondiscrimination provisions of Title VI.

(b) Whether the primary recipient is adequately providing Title VI information to its subrecipients and by what means (i.e. through posters and brochures). Where necessary, whether bilingual information is also available.

(c) Whether Title VI complaints received by the primary recipient are forwarded immediately to OEO.

(d) The frequency and quality of all compliance assistance provided by the primary recipient for its subrecipients.

(e) Whether Title VI compliance responsibilities have been designated to qualified primary recipient staff personnel and whether such responsibilities are being effectively executed.

(2) Compliance Reviews of Subrecipients. Subrecipient compliance with the Act shall be based on the following:

(a) Whether and by what means the subrecipient notifies the public that its programs are offered on a nondiscriminatory basis.

(i) Whether the Title VI (An "Equal Opportunity for All") poster or one comparable is visible in conspicuous areas on the premises.

(ii) Where mailing and/or telephone lists are used to inform the public of subrecipient programs, whether such lists are comprised of a racial and ethnic cross-section of the community.

(iii) Where necessary, whether bilingual informational materials are provided to the public.

(b) Whether racial data concerning minority participation in subrecipient programs is gathered and maintained for review, where program participation has been found to be deficient.

(c)Adherence to Title VI complaint procedures pursuant to Section 650.9.3.

(d) Whether records indicate that complaints of alleged discrimination have been received and forwarded to OEO.

(e) Where planning and advisory groups exist, whether membership includes minority representatives.

(f) Whether services and programs are comparable in minority and majority communities with respect to development and maintenance standards.

(g) Whether all persons have an equal opportunity to participate in programs and activities without discrimination or segregation by race, color or national origin. More specifically:

(i) Accessibility of facilities and services to the minority community.

(ii) Where admission fees are charged for program participation, whether such fees are equal in both minority and majority communities.

(iii) Adequacy of outreach program to the minority community.

F. If Non-Compliance is Found • (28 CFR 42.411)

(1) Voluntary Compliance Defined. Voluntary Compliance means willingness to correct conditions of noncompliance identified by complaint investigations or compliance reviews. Departmental regulations (49 CFR 17.7) require the resolution of an apparent condition of noncompliance by informal means when ever possible.

(2) Procedures for Achieving Voluntary Compliance.

(a) In every case where a complaint investigation or compliance review results in a finding of noncompliance, the Director shall notify the primary or subrecipient through certified mail of the apparent noncompliance. The notice shall clearly identify the conditions of noncompliance and offer a reasonable time to willingly comply.

(b) The Office for Equal Opportunity shall record the date the recipient received notice, and shall note and record the last day afforded the primary or subrecipient for voluntary compliance before initiating the administrative process to terminate Federal assistance.

(c) The primary or subrecipient may request a meeting for the purpose of discussing the problem areas or requirement for compliance. The principal investigator will accompany the Director or his designated representative to the meeting for the above stated purpose.

(d) The Director or his designee shall approve the primary or subrecipient's voluntary compliance plans, methods, procedures, and proposed actions if such approval will result in compliance with the Act.

(3) Sanctions available to the Department. When an applicant for or a recipient of Federal financial assistance is found to be in noncompliance with the Act, and compliance cannot be achieved by voluntary means, the Act provides several enforcement alternatives. If discrimination based on race, color, national origin, or any other technical violation of the Act is found in an applicant's program, the Office for Equal Opportunity can recommend temporary deferral of federal funds to the agency awarding the grant until full compliance has been satisfactorily established. If the grant has been made, the Office for Equal Opportunity may initiate administrative proceedings for the termination of current and future funding. Alternatively, the OEO may enforce the Act, by "any other means authorized by law." Although not explicitly stated by the Act, such other means include referral to the U.S. Department of Justice for appropriate judicial enforcement. No order suspending, terminating, or refusing to grant assistance to a primary or subrecipient can become effective until the Office for Equal Opportunity has:

(a) Advised the primary or subrecipient of its failure to comply and determined that compliance cannot be secured by voluntary means.

(b) Made an express finding on the record after opportunity for hearing of a failure by the applicant or primary or subrecipient to comply with a Title VI requirement.

(c) Obtained approval of the action to be taken from the Secretary of Transportation (49 CFR 17.7 c).

(d) Ensured that the Secretary has filed with the committee of the House and the committee of the Senate having legislative jurisdiction over the program involved.

(e) Submitted a full written report of the circumstances and the grounds for such action to the Secretary.

G. If No Conditions of Non-Compliance Are Found • Where the Director or his designee determines that review and investigation findings do not support an allegation of discrimination, the complaint shall be administratively closed. Within 5 working days of the closing date, the compliant will be notified through certified mail of the decision and given the reason(s) for the decision reached.

H. Referrals to the U.S. Department of Justice. (28 CFR 42.408 &411) The Department shall report to the Assistant Attorney General of the Civil Rights Division on January 1 and July 1, or each year, the receipt, nature and disposition of all process Title VI complaints. Any conditions of noncompliance in a recipient program or activity which cannot be voluntarily resolved by OEO, shall also be reported to the Assistant Attorney General for appropriate judicial enforcement within 60 days.

POSTER

EQUAL OPPORTUNITY IS FOR EVERYONE

Facilities and programs sponsored by this organization are available to the general public regardless of an individual's race, color, age, national origin, or handicap. Any difference in quality or quantity of benefits provided; separate treatment; different standards for participation; or discrimination in employment practices is strictly prohibited.

If you feel that you have been discriminated against because of race, color, age, national origin, or handicap, contact the following representative of the organization:

Name:
Address:
Telephone:

After contacting this individual if you feel that you have not received a satisfactory solution, or desire additional information contact: the Director, Office for Equal Opportunity, U.S. Department of Transportation Washington, D.C. 20204.

OPORTUNIDADES DE IGUALDAD PARA TODAS

Facilidades y programa certificados por este Parque y Agencia de Recreo estan al servicio del publico en general sin considerar la raza del individuo, color, edad, origen de nacionalidad, o incapacidad. Cualquier diferencia en calidad o cantidad de beneficios proveidos; mal trato; diferentes standards de participacion; o desciminacion en practicas de empleo son estrictamente prohibidas.

Si usted considera que ha sufrido desciminacion por motivo de su raza, color, edad, origen de naionalidad, o incapacidad, pongaseen contacto conel siguienterepresentativo del parque o directivode recrea:

Nombre:
Direccion:
Telefono:

Despues de comunicarse coneste individuo, si usted considera no haber recivido una solucion satisfactora o Desea informacion adicional contacte: the Director, Office for Equal Opportunity, U.S. Department of Transportation Washington, D.C. 20204.

SAMPLE COST BREAKDOWN

Multi-use Trail Project

1.	Preliminary/Pre-agreement expenses	
	Archaeological records search	150
	Preparation of site plan	500
2.	Land acquisition (11.3 acres by donation)	22,600
3.	Architectural and engineering fees	3,000
4.	Construction of parking area	
	Grading	3,000
	Asphalt	8,500
5.	Construction of trailhead facilities	
	Restrooms	10,000
	Drinking fountain	1,000
6.	Construction of trail	
	Grading	4,000
	Paved accessible trail (1.2 miles)	140,000
7.	Landscaping	2,000
8.	Signage	4,000
9.	Trail Information	
	Brochures	500
	Trail maps/Guides	500
	Creation of Web Page	500
Total		**$200,250.00**

Environmental Analysis

The Environmental Analysis is to be written as a narrative, descriptive statement. Each of the sections are to be identified by title with the narrative included under each section. The outline of suggested elements to include in each section is provided for your use. Do not reference an item by its letter in the narrative. For example, do not reference a code number such as "Item I. A. 1. $50,000," but rather describe the proposal in several sentences. Persons reading the document will not have the outline to which to refer for coded statements.

I. THE PROPOSED ACTION

The first section includes a description of the proposed project and the surrounding environment.

A. Description of the Project

1. Project Proposal. What is the purpose of the project? When will the project begin and end? What is the size of the project? How many acres will be acquired and/or how many phases of development are anticipated? Where is the project located? Submit a U.S.G.S map (or xerox copy) showing the project boundaries. Submit well-labeled photos (where at, facing what direction) of the site. What is the project cost?

2. Project Type. Describe in more detail the scope of the project being submitted. For acquisition include the number of tracts, method for development projects, list the facilities to be constructed. Describe in detail any secondary development which will occur (i.e. sewer lines, utilities, access roads). Describe all earth moving activities, draining, paving, filling, vegetative clearing, and/or dredging. Elaborate on any aspect affecting surface water or drainage of the project.

3. Local Needs. Indicate the types of park users to be served, such as youngsters, families, senior citizens, physically handicapped. Describe how this project meets local needs identified in the local park and recreation master plan. Reference other state, local, or regional plans in which the project is identified. Site page numbers of the plans referenced.

4. Funding. Explain any previous actions or proposed actions for which other federal funding has been used or is anticipated to be used. If non-federal funds will be used, indicate the source of the local share of the project cost.

B. Description of the Environment

1. Physical Conditions. Describe the site. Information which can be included in the description follows:

a. Soil conditions which might affect the site's use such as its stability, permeability or compatibility.

b. Presence of water such as streams, wetlands, lakes, ponds, or floodplain lands. Is the project located in a segment of a designated State Natural, Scenic or Recreational River? Any wetlands or areas within the 100 year floodplain need to be delineated on a site map. Data on floodplains may be obtained from Flood Information Maps currently produced by the Federal Emergency Management Agency. Some early maps were produced by the Department of Housing and Urban Development. The maps have been distributed to many local planning commissions, city engineers, county surveyors, libraries, and consultants. The information may also be obtained by sending location and site maps with a request for the site's flooding history and predictions to:

c. Vegetation on the site: ground cover, shrubs, flowers, trees, agricultural crops, open grassland.

d. Fish and wildlife species, particularly if the site is a habitat or breeding area.

> ***NOTE:*** *Consulting with a local college or university biology department might be helpful in answering letters (c) and (d).*

e. Special features such as location within a school park complex, reclamation area, landfill, nature preserve, unique geological area, mineral resources.

f. Man-made development such as houses, building, roads, levees, dams, utility systems, overhead transmission lines.

g. Other factors contributing to the uniqueness of the site including topography, current land use or zoning, access. Describe in detail any ecologically sensitive areas such as steep slopes, wetlands, or forests.

2. Social and Economic Conditions. Describe the area surrounding the site as it relates to the project. Describe any economic conditions affected by the project.

a. Surrounding land use—Residential, commercial, farmland. Anticipated changes in this use caused by the park development.

b. Number of people and families, farms, or businesses on the site to be relocated, number of people living in the surrounding area.

c. Racial or ethnic groups and low income or depressed areas to be served.

d. Availability of and competition with other private or quasi-public outdoor recreation facilities in the area.

e. Employment opportunities caused by the project.

f. For land acquisition, the amount of taxes to be lost compared to the tax base.

g. Any management agreements with local groups to operate or maintain the park.

3. Archaeological, Architectural and Historical Conditions.

a. Archaeology-mounds, cultural remains, artifacts, fossils of prehistoric animals or plants, prehistoric dwellings or villages. A letter from a qualified archaeologist must accompany the application.

b. Architecture-styles, buildings, districts or towns of architectural importance.

c. History-people, events, battles, structures, roads, museums, cemeteries, churches, districts or towns of historical importance. Indicate if the project site or any structure on or adjacent to the site is listed in the Indiana Historical Preservation Program and Survey or on the *National Register of Historic Places*.

II. ALTERNATIVES TO THE PROPOSED ACTION

This section should explain the reasonable alternatives to the proposed action described in Section I. This explanation should center upon the possible alternatives which were actually examined during the planning process, especially in the early stages. Both the beneficial and adverse environmental impacts of each alternative are to be discussed in sufficient detail to allow a realization of the long range impacts of the alternatives. The basis for rejection of each alternative should also be discussed. Alternatives could include the following:

A. No action (must be included in every assessment)
B. Postponing the action pending further study
C. Same development on another site
D. Other development on the same site
E. Different location of facilities on the site
F. Other methods of constructing facilities to serve the same purpose
G. Acquiring a different site
H. Acquisition and development of the site, rather than just acquisition
I. Leasing the land instead of acquiring it
J. Increase or decrease in the scope of the project

III. ENVIRONMENTAL IMPACTS OF THE PROPOSED ACTION

This section will be an objective discussion of the environmental impacts of the proposed action, including further related actions, if any, which are contemplated.

"Impacts" are defined as direct or indirect changes in the existing environment, whether beneficial or adverse. To the extent that it applies, the discussion will include impacts of the action, including environmental damage which could be caused by park users, upon economic, cultural aesthetic, and social conditions as well as upon the physical and biological environment. Elements on which impacts are unknown or only partially understood should be indicated. Any off-site impacts, such as increased traffic on neighborhood roads or an increase in noise levels to surrounding area, should be described.

All impacts will be discussed in this section. This will specifically include a discussion of each adverse impact and how it will be mitigated. If the impact will not be able to be mitigated, the reason must be included.

As an example, a project might include the acquisition of a parcel of farmland from which a family must be relocated. The project might also consist of the development of the site for a trail system including underground electrical, sewer and water systems; modern comfort stations and pit toilets; roads, parking lots and parking spurs; picnic tables, grills and trash cans; signs and trail markers; conversion of the existing house to a combination comfort/control station; and site improvement, seeding and landscaping.

The site preparation and construction will affect the physical conditions of the site. Grading and leveling will loosen the soil and make it more vulnerable to erosion. This process will also after the topography of the site. Vegetative cover will quite likely be removed, possibly reducing wildlife habitat. Rain water drainage patterns may be moved to a new locations due to site preparation. Obviously, the number and types of man-made developments on the site will be changed. The construction of this public outdoor recreation facility will also allow for the introduction of many motor vehicles in the area which will increase the noise and pollution levels, use of and additional wear on existing local roadways.

Relocation of the family to a new area will change the social conditions of the site and the surrounding area. The provision of the camping and picnicking facilities will increase the opportunity for social interaction of people in the recreational setting.

Transferring the land from private to public ownership will have an impact on the economic conditions because land will be removed from the tax roles. Zoning of the land may change from agriculture to recreation. Additional employment opportunities may become available as a result of the operation and maintenance of the campground.

These environmental effects should be discussed objectively and, if possible, quantitatively. For instance, each project will probably improve the social conditions of the site and surrounding area by upgrading the public outdoor recreation opportunities available on the site. Such recreation impacts should be stated in terms of recreation area served, activity occasions provided, expected peak day use, and other applicable units of measurement that quantify the impact of the proposed action.

Indirect changes, as well as partially understood effects, should be indicated. For example, the development of a new golf course will have some impact upon the traffic load on the roads surrounding the recreational area. The increased load and the type of vehicles should be estimated as nearly as possible. The National Park Service requires that environmental impacts be considered for the following elements.

A. Land use (project site and surrounding area). Will the project increase noise or traffic into the area that will adversely effect the surrounding residences or businesses? Will current land uses around the park change?

If the proposed project involves the acquisition and/or development of land that will taken out of agricultural production, this issue must be discussed. The county Soil Conservation Service (SCS) office is to be contacted for a determination on the status of the site as "prime farmland". The SCS agent will visit the site and prepare a letter indicating what percentage of the site, if any, is prime farmland.

If the project does contain "prime farmland", the impact of the removal of this land from agricultural production must be discussed in the environmental impact section. The amount of farmland available in the county is the key factor in determining the impact.

If this section does not apply to the proposed project, a statement verifying no effect on agriculture is still to be included in Section III of the Environmental Analysis.

B. Fish, wildlife, and vegetation The Endangered Species Act requires all applicants seeking federal funds to consider the impact of the project on any plant or animal endangered species, this section must be addressed in all environmental documents.

A list of endangered species is available from the Division of Nature Preserves (see next document in the Appendix). The project sponsor should have a qualified person look at the site if it contains areas of undisturbed vegetation or habitat. A local naturalist, fish and wildlife biologist or other person knowledgeable about plants and animals in the area can be used to conduct a preliminary reconnaissance. The Environmental Analysis submitted should document the efforts to determine the presence of any endangered species on the site.

If there are no known endangered plants or animals, a statement to the effect is to be made. Assurances are to be given that any future development on the site will be stopped if it appears an endangered species may be affected by the action.

Other fish, wildlife, and vegetation not listed on the endangered species list may be adversely affected by the project. The loss of any habitat or breeding area should be discussed.

C. Floodplains and wetlands Direct and indirect impacts on floodplains and wetlands are to be considered. Any measures taken to minimize flood damage to property or harm to lives should be discussed. The project may be a valuable asset to the area, protecting it from other negative uses. These positive impacts can also be included. Assurances should be given that appropriate Army Corps of Engineers review and permits for construction in the floodway by the Indiana Natural Resources Commission will be obtained.

D. Geology, soils, and mineral resources Loss or preservation of unique geological formations and the effect of construction on soil conditions should be discussed. The potential or lack of potential extraction of fuel or mineral resources is also to be included.

E. Air and water quality and resources Construction may involve a temporary decrease in air or water quality. The construction of a permanent water impoundment will obviously alter current conditions. Any construction in the floodplain should be noted and these impacts evaluated.

F. Historic/archaeological resources If there are known historic, archaeological or architectural resources, impacts on the construction need to be discussed. If none exist, a statement should be made to that effect.

G. Transportation/access/utilities Development of a park may place a strain on existing roads or utility systems. Transportation patterns may also be affected.

H. Consumption of energy resources Is the project and its development energy efficient? Do roads provide adequate access to facilities, but do not encourage needless driving? Are facilities designed to be energy efficient? Have alternative sources of energy been explored such as using solar energy to heat water for restrooms or a bathhouse?

I. Handicapped Access Has the project been designed to allow maximum use by persons with disabilities? Discuss design adaptations which are going to be made.

Finally, the project sponsor must consider the impact of the project or the park on its future operation and maintenance. Will new staff have to be hired or new maintenance equipment purchased? Do any of the facilities require special order or costly supplies? How vandal proof are the facilities? Project sponsor must be realistic about the additional costs which are going to be needed for operation and maintenance. New parks and facilities cannot be operated for free.

IV. INDIVIDUALS AND AGENCIES WHICH REVIEWED THE PROJECT

The final section should list the individuals and agencies which were consulted during the formation of the proposal and the environmental impact assessment. This section should briefly summarize public meetings held in conjunction with the proposal and the assessment. Persons that may have reviewed the project are as follows:

A. City or county council
B. Planning Agencies
C. Neighborhood associations
D. Regional or state clearinghouses
E. Department of Natural Resources

F. Soil Conservation Service
G. State Board of Health
H. Administrative Building Council

In particular, reference studies or coordination efforts between agencies that contributed to the project.

Public notification of the preparation of any type of environmental assessment is required by Federal Regulation 40 CFR 1506.6. For most small projects, this type of notification can be done at the public meetings held in conjunction with the application process. Comments received can be included with this document or summarized as part of the public participation element section of the Program Narrative. For larger projects, the project sponsor would obtain a copy of the regulation from the Division of Outdoor Recreation. For projects involving floodplains and wetlands, the public meetings and notices of the meetings need to specifically indicate that the project is proposed for a floodplain or wetland.

Environmental Impact Statements

The majority of projects will need to complete only the Environmental Aanalysis. Some projects which involve major acquisitions or large developments may be required to submit a detailed Environmental Impact Statement. This statement will not generally need to be completed until after it is determined whether federal funds will be available for the project.

Projects which may need an Environmental Impact Statement could include acquisition or development under the following conditions:

1. Marshes, wetlands, unique animal or plant ecosystems, lakes, streams, or marine areas are affected significantly.

2. The acquisition of land would involve a major relocation of households and/or businesses.

3. The acquisition of significant amounts of land which would foreclose other beneficial or unique uses of land; such as "prime" agricultural land, valuable timber lands, strategic or critical mineral, water or transportation facilities.

4. The development of the project land for outdoor recreation would significantly change the use patterns of the area surrounding the LWCF assisted facility.

5. An archaeological or historical site on or eligible for nomination to the *National Register of Historical Places* would be adversely affected by the acquisition and or development project.

6. Highly controversial issues over the environmental effects of the project exist are expected.

7. The land being acquired, developed, or affected by the project contains threatened or endangered species of flora or fauna, rare minerals or a unique geologic formation.

The Division of Outdoor Recreation will supply the project sponsor with an outline for preparing and Environmental Impact Statement. Project sponsors who feel their projects might fit any of the above criteria should contact a grants coordinator in the Division of Outdoor Recreation prior to submitting an application.

A project which potentially involves significant environmental impacts would require a complete Environmental Impact Statement. The statement is reviewed by a variety of federal agencies prior to an approval or disapproval being given to the project.

Certification for Development Projects

This certification must be provided for development projects for which the land was acquired after September 2, 1971, if the acquisition procedures were not in accord with P.L. 91-646, the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act.

I,_____,_____
President Local Agency

hereby certify, under penalty for willful misstatement (18 U.S.C. 1001) that at the time of the acquisition and last known displacement on the project lands for which this Federal financial assistance is being sought, no planning had been initiated by this agency to obtain this financial assistance.

SIGNATURE_____

DATE_____

*"Whoever, in any matter within jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both."

Recreational Trails Program Application Form

Organization:	Address:
Contact Person:	City, Zip:
Employer Identification Number: (assigned by the Internal Revenue Service)	Phone/ Fax:
	Email:

Name and Brief Description of Project:

COST CLASSIFICATION

1. Preliminary expenses	$
2. Land, structures, and rights-of-way	
3. Architectural and engineering basic fees	
4. Relocation expenses	
5. Construction and equipment	
6. TOTAL (lines 1 through 5)	
7. Less program income	
8. Net project amount (line 6 minus line 7)	
9. Add contingencies (not to exceed 10%)	
10. TOTAL PROJECT AMOUNT	
11. Grant request in line 10 (80%)	
12. Applicant's share of line 10 (20%)	

METHOD OF FINANCING APPLICANT'S SHARE

1. Appropriations (by applicant)	$
2. Bonds	
3. Tax levies	
4. Donations	
a. land	
b. cash	
c. labor	
d. equipment	
e. materials	
5. Federal source (specify below)	
6. Force account (specify below)	
7. Other (specify below)	
8. TOTAL APPLICANT'S SHARE	

Remarks:

To the best of my knowledge, information in this application is true and correct, the grant application has been duly authorized by the applicant and it will comply with all conditions of the program if funding is approved.

Signed_____ Date _____

Printed name, title_____

revised 1/11/05

Application Form - Instructions

BUDGET INFORMATION

1. Preliminary Expenses • Enter any costs incurred prior to grant award and/or submittal. Eligible types of costs would include archaeological literature searches, architectural/ engineering preliminary design services, and grant application preparation services. Other costs are not eligible.

2. Land, Structures, and Rights-of-way • State the value of all land and rights to land which will be acquired in the project, whether by negotiated purchase, condemnation, donation, or bargain sale.

3. Architectural and Engineering Basic Services • Specify the anticipated costs for architectural/ engineering design services, including project plan and specification preparation, project inspection fees, and any other necessary professional services.

4. Relocation Expenses • Enter anticipated costs for providing relocation assistance to affected (displaced) individuals, groups, or businesses.

5. Construction and Equipment • State the projected costs for all construction, materials, and labor costs which will be incurred in this project.

6. Total • Add lines 1 through 5. This amount will equal the total cost for acquistion and development.

7. Program Income • Enter the amount of income which will be generated by timber sales, cash cropping, or other revenue which will be generated by the site during the project. This must be reduced from the total on line 6.

8. Net Project Amount • Subtract line 7 from line 6 and enter the result here.

9. Contingencies • Add a contingency amount which would cover cost increases due to inflation, time delays, and other unanticipated costs. This may not exceed 10% of the total project cost.

10. Total Project Amount • Add lines 8 and 9 and enter the amount here. This figure must match the total project cost which is on the cost breakdown.

11. Grant Request • State the amount of grant assistance which will be requested for this project. This usually will be 80% of line 10. It may not exceed the grant application limit of $150,000.00.

METHOD OF FINANCING APPLICANT'S SHARE

Identify the amount and source(s) of the applicant's share (usually 20%). The total must equal the amount specified in the *evidence of local share* item on the application checklist. Explain details of the costs in the remarks section.

FORCE ACCOUNT LABOR FORM

Applicant:_____ Project number:_____

Employee's name:_____ Pay period:_____

Date	Location	Hours	Wage rate	Eligible wage costs	Description of work	Overtime			Total claimed costs
						Time in hours	Wage rate	Eligible overtime costs	
Totals					**Totals**				

I certify, under penalty of perjury, that the above time record is correct, fair, and is based upon work performed and actual payment.

_____ _____

Employee's signature, Date Supervisor's signature, Date

FORCE ACCOUNT LABOR FORM
Instructions

The Force Account Labor Form documents the labor costs of the applicants employees who worked on a Recreational Trails Program project. To justify these expenses, the Force Account Labor Form must be submitted along with copies of the payroll.

Column headings are self-explanatory. The employee's entire day must be documented. If the employee spent half a day on the project site an entry must be made for the remainder of the day.

Overtime pay is not normally eligible unless a written justification accompanies the force account sheet. The justification should explain the circumstances surrounding the additional time needed to complete the work. Overtime reimbursement will be considered only when an employee is working fulltime for a period of several days or weeks at the project site. A rule to remember is that salaries and wages for persons working on assisted projects shall not exceed wage rate for similar persons working on similar jobs.

DONATED LABOR FORM

Applicant:_____ Project number:_____

Donor's name:_____

Date	Location	Hours	Wage rate	Total eligible wage cost	Description of work
TOTALS					

I certify that, under the penalty of perjury, that the above information is correct, fair, and an accurate representation of the actual work performed.

_____

Donor's signature Date Supervisor's signature Date

Donated Labor Form

Instructions

This form is used to document labor costs of volunteer workers who worked on the Recreational Trails Program project. To justify their donated time, the completed form must be submitted with the billing.

One form must be completed for each person, listing the date(s), hour(s), wage rate, and type of work completed on the project. The form must be signed by the donor and their supervisor (usually the applying Agency's president). A statement from the local fiscal officer, which certifies the wage rate must be included, if it had not already been submitted.

If a Volunteer is employed in a skilled trade and they were providing that skill for the project, then their time may be valued at their normal rate. A statement of their hourly wage on company letterhead must be provided.

If a Volunteer is not employed in a skilled trade, the sponsor must provide a statement of the wage rate paid to the entry level municipal laborers. That is the rate that will be reimbursed.

BILLING FORM

1. Name of Project:_____ 2. Project number:_____

3. Applicant:_____ 4. Phone number:_____ 5. Type of request (circle): Partial Final

6. Billing number:_____ 7. Period covered: From_____ To_____ 8. Page number:_____of_____

9. Name of Vendor	10. Check Number	11. Total claim paid or donated amount	12. Amount eligible	13. Specific explanation of purchase for reimbursement

14. Amount eligible for reimbursement 15. Amount requested

$_____x .80 (or 80%) = _____

I certify that, to the best of my knowledge and belief, the above costs are in compliance with the terms of the project and that the reimbursement request represents the Federal share due which has not been previously reimbursed, and that all work meets the terms of the grant.

16. _____ 17. _____

Signed, agency president Date

BILLING FORM
Instructions

One copy of the Recreational Trails Program Billing Form must be completed in order to request reimbursement. Instructions for the completion of the form are as follows:

1. – 4 Self-explanatory.

5. Circle "partial" unless this is the final close-out billing.

6. Note if this is the first, second, third, etc. billing submittal for reimbursement.

7. Indicate the period that is covered by the work incurred for this billing. *For example: From May 16, 1992 to August 4, 1992.*

8. If more than one billing form is used, mark each consecutively and note the total number of pages. *For example: Page 3 of 5.*

9. Indicate the name of the vendor, individual, or contractor to whom payment was made. In the case of donations, identify the donor.

10. Provide the number from the check that was used to pay the vendor in column #9. In the case of donations, indicate by the word "donation."

11. Fill in the total dollar amount as written on the check for which reimbursement is being claimed or the full value of the donation.

12. Indicate the amount of the figure in column #11 that is eligible for reimbursement. This amount is usually the same as that in column #11 except when several items, eligible and ineligible, have been included on the same check.

13. Describe exactly what was purchased for each reimbursable item. Identify the facility so that the grants coordinator can determine the eligibility of the item. *For example: seven poles for lighting the trail.*

14. Add all of the figures in column 12 and indicate the sum here.

15. Multiply the figure in item #14 by .8 and indicate the amount here. This will be the amount of the reimbursement check for this billing.

16. The agency president or person responsible for project administration must certify to the accuracy of the reimbursement request.

17. Fill in the current date.

Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion

Lower Tier Covered Transactions

1. By signing this proposal, Applicant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the Applicant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department of Natural Resources (DNR) may pursue available remedies, including suspension and/or debarment.

3. The Applicant shall provide immediate written notice to its assigned IDNR grants coordinator if at any time the Applicant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," " and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549.

5. The Applicant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the IDNR or Federal Highway Administration.

6. The Applicant further agrees by submitting this proposal that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transaction," without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. The Applicant may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. An Applicant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to check the Nonprocurement List on file with the IDNR's; Division of Outdoor Recreation grants staff.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 above, if an Applicant knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the IDNR may pursue available remedies, including suspension and/or debarment.

I. The _____ (Applicant) certifies, by submission of this proposal, that neither It nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

II. If the Applicant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

_____ _____

(Signature) (Date)

_____

(Typed Name and Title of Authorized Representative)

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 49 CFR Part 12, Section 12.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). To obtain a copy of the regulations, contact:

U.S Dept. of Transportation
Acquisition and Assistance Division
Office of Acquisition and Property Management

Washington, D.C. 20240

POST CONSTRUCTION CERTIFICATE

Instructions
This certificate must be submitted with the final billing. The form is signed by the applicant and the architect or engineer who supervised the construction. If the project did not involve a consulting architect or engineers, the town, city, or county engineer should inspect the project and sign the form.

As-Built Plans
If deviations in design or site location were made from the plans previously submitted to the Division of Outdoor Recreation, "as-built" plans must accompany this form. As-built plans must include:

a) site plan showing the location of the project area and facilities;
b) elevations and floor plans of structures.

Two copies of as-built plans are to be submitted. The project sponsor must record one set of plans which identifies the work done with federal funds at the site, at both the Town Hall and County Courthouse.

POST CONSTRUCTION CERTIFICATE

I hereby certify that construction of Project Number _____ has been completed in accordance with the original and revised plans and specifications on file with the Indiana Department of Natural Resources, Division of Outdoor Recreation. The plans and specifications are consistent with the scope of the project approved by the Federal Highway Administration and the Indiana Department of Natural Resources. The project has been constructed in accord with all applicable State and local building rules and regulations and is acceptable for public use.

_____ President date

_____ ProjectEngineer/Architect date

_____ Certification Number of Stamp

Check One:

__Attached are 2 copies of as-built plans

__Plans did not change from those previously submitted and approved

STATEMENT OF JUST COMPENSATION AND OFFER TO PURCHASE

The_____is in the process of acquiring private
(Agency or Organization)
property necessary for _____
(Identification of Project)
Title records indicate that you are the present owner of the real property located in
_____, State of Indiana comprising _____acres
(name of town, city, or county) (approximate)
and legally described as follows: *(enter legal description here)*

Since your property is within the project area, it is necessary to acquire the property for this project. In compliance with Section 301 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, an estimate of just compensation has been made as to fee title interest in our real property. The estimate of fair market value of the real property described above is based on an appraisal approved by the Indiana Dept. of Natural Resources and other indicators of land value in the vicinity of your property.

I,_____, certify that,
(name of landowner)

1. The total just compensation is not less than the appraiser's opinion of fair market value of the above property, and

2. I was afforded the opportunity to accompany the appraiser during the inspection of the above property.

The appraisal takes into consideration the location of your property, its highest and best use, current land sales of properties similar to your property and other indicators of values, such as:

Just compensation includes amounts for the land, improvements, serverance, if any, and other elements as follows:

Value of the Land	$_____
Value of Land Improvements	$_____
Value of Dwellings & Garage	$_____
Value of Other Improvements	$_____
Damage to the Remainder	$_____
Other	$_____
Total Compensation	$_____

Statement of Just Compensation, page 2

The fair market value estimate for your real property described above includes all buildings and other improvements **except** those specifically listed below: *(enter exceptions here)*

Any decrease or increase in the fair market value of the real property prior to the date of valuation caused by the public improvement or project for which the property is to be acquired, or by the likelihood that the property would be acquired for such improvement or project, other than that due to physical deterioration within the reasonable control of the owner, has been disregarded in making the determination of just compensation.

We are prepared to commence negotiations with you for the purchase of the property subject to any existing easements or restrictions of record and excepting and reserving the following interests which will not be acquired and for which no value is included in our estimate of just compensation.
(enter easements or restrictions here)

The_____hereby offers you $_____
(Acquiring Organization)
which is the appraised value for the above property. This offer is not to be considered a binding agreement on either party.

I have been informed of my rights under P.L. 91-646. I further understand that I am not bound to sell my land for this value and may negotiate with the purchaser for a higher or lower value.

_____	_____
Signature of Landowner	Signature of agency or organization president
_____	_____
Printed name	Printed name
_____	_____
Date	Date

WAIVER OF RIGHT OF JUST COMPENSATION

Name of project: _____

I,_____, have been informed of all my rights and benefits under the
(Name of landowner)
Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and have been provided with a Statement of Just Compensation and Offer to Purchase for the appraised value of $ _____for my property. Of my own choice, I have elected to accept $_____ for my property, which is less than the approved appraisal of fair market value for the following reasons:

_____
(Signature of Landowner)

_____
(Printed name)

_____
(Date)

RECREATIONAL TRAILS PROGRAM

A cooperative project of the Federal Highway Administration, Indiana Department of Natural Resources, and local organizations.

Date: _____

POTENTIAL HAZARDOUS WASTE SITE ASSESSMENT FORM

Project Information:

Road: _____ Project #: _____ Des.#:_____

Description:_____

_____

Screening Criteria:

1. Description of right-of-way requirements (existing and proposed):

_____

_____

2. Land use history and development:

Setting (rural/urban):

_____

Current land uses:

_____

_____

Previous land uses:

_____

_____

Adjacent land uses: (Industrial, light industry, commercial, agricultural, housing, other - indicate source of data, i.e. visual inspection, aerial photos, U.S.G.S. quad maps, etc.)

_____

_____

3. Visual inspection:

Storage structures:

Underground tanks

Surface tanks

Transformers

Sumps

Contamination:

Junkyard

Auto graveyard

Surface staining

Oil sheen

Ponds

Drums

Basins

Landfills

Other

Site(s) _____

Odors

Vegetation damage

Dumps

Other

Site(s)_____

Potential asbestos containing materials:

Buildings

Sprayed-on fireproofin

Acoustical plaster

Serpentine

Pipe wrap

Friable tape

Site(s)_____

4. In-house records review: (Check any or all of the following agencies for evidence of hazardous waste.)

Indiana Department of Environmental Management, Local (City/County,i.e. City/County Health Departments, City/County Civil Defense, County Assessor, Local Fire Marshals and Fire Departments, City/County Environmental Departments, Department of Public Works), U.S. Environmental Protection Agency.

5. Any known hazardous waste sites in vicinity? _____ (if yes, identify, include source and explain)

_____

_____

Comments:

Conducted by_____

attachments: aerial photograph or U.S.G.S. quadrangle map locating project area and any potential areas of concern

INFORMATION NEEDED TO BEGIN THE SECTION 106 REVIEW PROCESS
(Updated as of October 26, 2004)

A review process for actions proposed to taken by, funded, permitted, or licensed by a Federal agency is mandated by Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470f) and is spelled out in regulations of the Advisory Council on Historic Preservation at 36 C.F.R. Part 800). To begin the Section 106 review process, an official of the Federal agency must establish whether there is an undertaking that has the potential to affect historic properties and, if so, identify properties (buildings, structures, objects, sites, or districts) that are either listed in the National Register of Historic Places or eligible for listing. Under many of the funding programs of the U.S. Department of Housing and Urban Development ("H.U.D."), by Federal law a state or local government (often referred to as the "Responsible Entity") has been delegated the environmental responsibilities that H.U.D. otherwise would have to fulfill. In such cases, the appropriate official of the Responsible Entity is the Federal agency official for Section 106 purposes. The Federal agency may authorize its applicant for funding or licensing or a consultant to begin the Section 106 process with the State Historic Preservation Officer (or "SHPO"), but formal findings and determinations must be made by the Federal agency.

The Section 106 process, as governed by 36 C.F.R. Part 800, typically has up to five steps:
Step 1: Initiate the Section 106 process
Step 2: Identify historic properties
Step 3: Assess adverse effects
Step 4: Resolve adverse effects
Step 5: Implement any agreement reached to resolve adverse effects

Because the process is designed to be followed systematically, it is generally not advisable to try to cover all of the steps in the initial submission. However, it is usually reasonable and productive to deal with Step 1 and much of Step 2 in the initial submission to the SHPO. The list below identifies the kinds of information and materials that we recommend the Federal agency or its authorized applicant or consultant mail or deliver to the SHPO at the following address:

State Historic Preservation Officer
Indiana Department of Natural Resources
Division of Historic Preservation and Archaeology
402 West Washington Street, Room W274
Indianapolis, Indiana 46204-2739
telephone number 317-232-1646

website: http://www.in.gov/dnr/historic/106.html

The SHPO or his staff at the DHPA will notify Federal agency or its authorized applicant or consultant if basic elements needed in the submission for SHPO review are missing. The SHPO will attempt to send such notifications within 30 days after receipt of the submission.

CHECKLIST: INITIAL ITEMS TO BE SUBMITTED TO THE SHPO FOR THE SECTION 106 REVIEW

Step 1: Initiate the Section 106 process

The initial letter to the SHPO should include as much as possible of the following information about the

undertaking:

___A) The formal name of the undertaking (if any) or a short-hand characterization of the undertaking (e.g., the Rehabilitation of the Smalltown School for Senior Housing or the Metropolis Downtown Streetscape Project).

___B) The name, mailing address, and other contact information for the Federal agency (or Responsible Entity) or for the State agency that is being asked to provide funding, to issue a license or permit, or otherwise to approve the undertaking.

___C) The Federal or State funding, licensing, or permitting program or programs (e.g., Community Development Block Grant, Transportation Enhancement, State Revolving Fund, Section 404 Permit, or Construction in a Floodway Permit) from which either financial assistance or approval will be sought for this undertaking.

___D The name, mailing address, and other contact information for the applicant for Federal funding or a license or permit, if the Federal agency is not conducting the undertaking by itself.

___E) If the Federal agency (or Responsible Entity) wishes to authorize its applicant or its applicant's agent (e.g., a grant administrator, an attorney, or an architectural, engineering, environmental, or historic preservation consultant) to initiate the Section 106 process with the SHPO, then provide a copy of a letter or other written evidence of that authorization to the SHPO. Keep in mind that only the Federal agency (or Responsible Entity) has the authority to make formal determinations (e.g., the boundaries of the area of potential effects or the eligibility of properties for the National Register of Historic Places) or findings (e.g., "no historic properties affected," "no adverse effect," or "adverse effect").

___F) Name the consulting parties (i.e., those local governments, local historical or historic preservation organizations, county historians, neighborhood associations, adjoining landowners, and the like, whom the Federal agency or its applicant have reason to believe might have an economic, legal, or historic preservation interest in the undertaking and whom the Federal agency or its applicant have invited or intend to invite to participate in the Section 106 process.

___G) A written description of the location of the undertaking (i.e., street or road; address, if any; city or town-or township, if in a rural area; and county).

___H) If possible, a detailed scope of work for the undertaking, or if such detail is not yet available, then as complete a description as possible of all major elements of the undertaking (e.g., excavation, filling, grading, paving, partial or total demolition of a building or structure, new construction, construction of an addition, remodeling, or moving).

Step 2: Identify historic properties

The initial letter also should include as much as possible of the following kinds of information:

Determine the scope of identification

___A) Propose the area or areas of potential effects (i.e., the geographic area or areas within which an undertaking may cause changes in the use or character of historic properties, if any such properties exist; this includes effects that are direct or indirect, cumulative, later in time, or at a distance); and provide a map or a good quality photocopy of a map containing the following:

i) The boundaries of the area of potential effects clearly outlined in dark ink (highlighter and pencil do not photocopy well) on the a copy of the relevant portion of a town, city, county, or U.S. Geological Survey quadrangle map.

ii) The precise location of the project area (i.e., the area where work will take place and where materials may be stockpiled or heavy equipment parked when not in use) within the boundaries of the area of potential effects clearly identified in dark ink (highlighter and pencil do not photocopy well). Please note, the precise location of the project area is not the same thing as the area of potential effects.

iii) The names of nearby landmarks clearly labeled (e.g., major streets, roads, highways, railroads, rivers, lakes).

Evaluate historic properties

___B) If possible, using the same map, show the precise location of any buildings, structures, objects, sites (other than archaeological sites), and districts or parts of districts within the area of potential effects (e.g., addresses and a site map with properties keyed to it) that may be affected by the project;

___C) Gather and organize documentation on the history and possible significance of buildings, structures, and objects within the area of potential effects including the following: known or approximate dates of original construction; a description of any known modifications to individual buildings, structures, objects, sites, and districts; associations with significant events or persons, and any other historical information known about the properties, within the area of potential effects that might shed light on their significance.

___D) Describe the existing condition of any vacant land within the project area; in particular, state whether or not the ground is known to have been disturbed by construction, excavation, grading, or filling, and, if so, indicate the part or parts of the project area that have been disturbed; agricultural tilling generally does not have a sufficiently severe impact on archaeological sites to constitute a disturbance of the ground for this purpose.

___E) Document the sources checked (e.g., correspondence, bibliographical citations [e.g., title, author, page number], or copies of relevant materials obtained from oral history interviews, sample field investigations, field surveys, background research, consultation with a county historian, a local historical or historic preservation organization, or reference materials such as the interim report of a local historic sites and structures inventory);

___F) Provide recent, clear photographs or good quality computer-generated images (not photocopies), keyed to a site plan, showing the exterior (and interior, if feasible) of any buildings, structures, objects, districts, or sites (excluding archaeological sites, whose location should not be disclosed to the public) that could be affected in any way (such as by demolition, rehabilitation, expansion, taking of right-of-way, or visual modification or obscuration) by the project;

Depending on the nature of the undertaking and the kinds of properties it could affect, the SHPO may request additional information, such as the report of an archaeological investigation of a parcel of land. However, it is advisable to wait until the SHPO has commented on the initial submission of information before expending additional time and funds on preparing such information.

If no historic properties are found within the area of potential effects, or if there clearly will be no effect on any historic properties that have been identified, then the Federal agency could issue a finding of "no historic properties affected" and provide the SHPO with documentation of the basis of that finding, provided that it or its authorized applicant or consultant has consulted about those issues with the SHPO. However, it generally is not

advisable to provide such a finding from the Federal agency within the initial submission, because the process requires that the Federal agency consult with the SHPO before making determinations and findings--absent an agreement with the SHPO to conduct the process in an expedited manner--and because the SHPO may have information or opinions on the significance of properties or the undertaking's effect on them that the Federal agency may not have.

Similarly, the SHPO might request additional information about the effect of the undertaking on an historic property or about the feasibility of avoiding or minimizing an adverse effect (e.g., a structural report on a building to be demolished or photographs of work areas and detailed plans and specifications of proposed rehabilitation work). This information usually need not be provided in the initial submission to the SHPO, however.

For more information on the Section 106 process refer to the Federal regulations at 36 C.F.R. Part 800, which are available on the Internet at www.achp.gov.

Support Conservation Through The Natural Resources Foundation.
Donations of money or property are accepted to promote the work of the IDNR.

Support the Indiana Heritage Trust!
Buy an Environmental License Plate. Your donation will purchase natural areas for preservation and recreation.

For more information about the heritage trust or the Natural Resources Foundation contact:

Natural Resources Foundation 402 West Washington Street
Indianapolis, Indiana 46204-2212 (317) 233-4020.

www.state.in.us/dnr/outdoor
Indiana DNR, Division of Outdoor Recreation
402 West Washington Street, W271
Indianapolis, IN 46204
(317) 232-4070
fax: (317) 233-4648

Under Title VI of the 1964 Civil Rights Act, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, the U.S. Government prohibits discrimination on the basis of race, color, national origin, age, sex, or handicap. If you believe that you have been discriminated against in any program, activity, or facility as described above, or if you desire further information please contact the Department of Natural Resources, Executive Office, Indianapolis, Indiana.

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