

**Clarification of Select Ranking Criteria in 50 CFR 84.32 and
General Program Questions**

The purpose of this attachment is to provide clarification of certain criteria in Title 50 of the Code of Federal Regulations, Part 84. This clarification will serve as interim guidance until these issues are addressed through a formal rule revision.

50 CFR 84.32 (a)(1) (Criterion 1):

Must a score of 7 be given for all proposals that result in over 50% of the project area conserving, restoring, or protecting decreasing coastal wetlands types?

Yes. Proposals that document that over 50% of the project area will be, upon project completion, decreasing coastal wetlands types will receive the full 7 point score. Specific guidance on how reviewers score this criterion is provided in 50 CFR 84.32 (a)(1).

Should a graduated scale be used to further delineate proposals?

The program regulations in 50 CFR 84.32 (a)(1) provide guidance on the use of intermediate scores (i.e., less than 7 points) for projects that document that, upon project completion, a minimum of 50% of the project area will be a combination of decreasing and stable types of wetlands, and for projects that are less than 50% wetlands.

50 CFR 84.32 (a)(2) (Criterion 2):

What qualifies as a maritime forest?

A thorough description of what is considered to be a maritime forest for the purpose of the National Coastal Wetlands Conservation Grant program is found in the program regulations in the Definitions section, 50 CFR 84.11.

How will this criterion be scored?

In order to receive the maximum 7 points for this criterion, the project must significantly benefit maritime forests which meet the following descriptions: 1) are located on coastal barriers (see definition of "Coastal barrier" in 50 CFR 84.11) along the mainland coast from Delaware to Texas, and 2) are broad-leaved forests. Examples of maritime forests are primarily characterized by a closed canopy of various combinations of live oak, upland laurel oak, pignut hickory, southern magnolia, sugarberry, and cabbage palm.

Intermediate scores of less than 7 points are acceptable 1) for proposals in which the significance of the benefit to maritime forests is unclear, or 2) for proposals in which it is unclear if the forests meet the strict definition of maritime forest.

50 CFR 84.32 (a)(10) (Criterion 10):

Can proposals receive points for more than one State agency's participation in a proposed project?

In general, proposals will only receive credit for one State agency. The exception to this practice will occur when a proposal includes multiple States. In these instances, the proposal may receive points for each additional State that is participating in the proposed project.

50 CFR 84.32 (a)(11) (Criterion 11):

Can in-kind services or contributions be used as the required state match?

Yes. In-kind services can be used for the entire portion of the State's required cost share (i.e., 25% or 50%).

Can in-kind services or contributions, including bargain land sale, be used to score points for this criterion?

No. Only cash contributions above and beyond the required match can be used to get scoring points for Criterion 11. Cash is a liquid asset and can be tracked easily through audit procedures and also serves as a proxy for the State's commitment towards a project. Federal regulations and guidance clearly identify a landowner's acceptance of a reduced price for his or her property as an in-kind service or contribution, not cash. As such, so-called "bargain sales" cannot be used to receive points for decreasing the Federal share.

Can the in-kind contribution of a landowner accepting an offer below market value for his property be used for the required state match?

Yes. The in-kind contribution of a landowner accepting a reduced price for his property can be used as part of or all of the State's required cost share of 25% or 50%.

What is required for the proof of match?

The level of documentation required for this criterion differs based on the source of the matching funds proposed for use by the applicant. If the source of the matching funds is from State funds, then a Standard Form 424 will suffice. If the source of matching funds is from a non-State agency partner, then a signed letter of commitment from an authorized representative of the match provider must be included with the proposal to receive points. This information must be included in the proposal package by the time it is sent to the Washington office. State partners are ultimately accountable for third party commitments of financial support.

50 CFR 84.32(b)(4) (Additional considerations):

Please clarify the ‘provides lands as part of the State matching share’.

The purpose of this tie-breaking factor is to consider proposals which include the donation of lands owned by a third party as part of the overall project as advantageous to those that do not. Such donations increase the overall acreage of land managed by the State agency, increasing the likelihood that the land will be managed to conserve the natural resources and increase the management options for the grant property.

General Questions:

Do “total costs” under 50 CFR 84, including 84.21(f), 84.32(a)(11), and 84.46, refer to the total cost of the project or the total amount of funds requested from the National Coastal Wetlands Conservation Grant Program (NCWCGP) in the proposal?

“Total costs” refer to the total costs of a project, including the total amount of funds requested from the NCWCGP, the non-Federal share, and any addition Federal contributions to the overall project. If the total costs of a project are \$8 million, the minimum non-Federal share would be either \$2 million (25%) or \$4 million (50%), depending on whether or not the State has a designated fund (see definition of fund in 50 CFR 84.11). The amount of the non-Federal share may in some cases exceed the maximum grant allowed for award by NCWCGP (\$1 million).

Does “maximum Federal share” under 50 CFR 84, including 84.32 (a)(11) and 84.46 (h), refer to the maximum percentage of Federal dollars of the total project costs, i.e., 75% or 50%, or the maximum grant amount from the NCWCGP, i.e., \$1 million?

“Maximum Federal share” refers to the percentage, i.e., 75% or 50%, of Federal dollars of the total project costs, not the maximum grant amount from the NCWCGP, i.e., \$1 million. For example, if total project costs are \$8 million, the maximum Federal share would be either \$6 million (75%) or \$4 million (50%), depending on whether or not the State has a designated fund. The Federal share includes all Federal contributions, including money provided to the State by other Federal programs. If the applicant only provides the minimum non-Federal share (25% or 50% of total project costs), no points will be awarded for reducing the Federal share (50 CFR 84.32 (a)(11), Criterion 11).

What changes are allowed to a proposal after its submission?

Proposals submitted to the Regional offices for consideration in the national competition must be in final format by the due date specified in the Request for Proposals. The only proposal changes that will be accepted after the due date are those that will not impact the project scoring, such as small corrective or clarifying statements.

In cases where the applicant notifies the Service of a change in a project's scope or the addition of information that may impact the scoring process after the due date of the proposal, the National Review Panel will score and rank the proposal as it was originally submitted.

Who is responsible for determining eligibility of a proposal?

Regional Federal Assistance personnel determine whether a proposal is eligible and should be considered for ranking by the National Review Panel (50 CFR 84.30). If Regional personnel have questions regarding the eligibility of a project, then they are encouraged to consult with their Regional Federal Assistance Chief and/or Washington Office staff. This occurs before proposals are sent to the Washington Office.

The Washington Office Federal Assistance office will reexamine the proposal's eligibility if questions arise. If deemed ineligible, the proposal will not be further considered for funding.

What criteria are applied with in-kind services or donations in order to determine eligibility for consideration with a proposal?

Regional Federal Assistance personnel and National Review Panel members are responsible for carefully scrutinizing in-kind services and donations submitted as part of a proposal package. In-kind contributions must be determined to be reasonable and necessary to achieve the proposed grant objective and must meet the applicable Federal cost principles in 43 CFR 12.62 (b).

How far back can contributions toward a project be counted?

The current program regulations do not identify a time limit or restriction for accepting in-kind or other contributions for a project. In order to be considered for a project, the costs must be considered as reasonable and necessary for achieving the overall project objectives. Additional guidance on determining if a service or donation is reasonable for a proposal can be found in 2 CFR, 220, 225, 230.

Is the National Review Panel required to score all proposals?

Yes. Each member of the National Review Panel is required to score and rank all proposals that meet the basic eligibility standards of the program. If a reviewer has a conflict of interest for a proposal, the reviewer will recuse himself from scoring and ranking that proposal.