

Neotropical Migratory Bird Conservation Act

GRANT ADMINISTRATION GUIDELINES

For Recipients with Grant Activities Outside of the United States of America

Revised November 2011

(web links updated 2019)

I. AUTHORITY AND GENERAL PROVISIONS

The authority for the Neotropical Migratory Bird Conservation Act (NMBCA) grant program is Public Law 106-247-July 20, 2000, as amended.

Acceptance of a Federal Financial Assistance Award (Award) from the U.S. Fish and Wildlife Service (FWS), Department of the Interior (DOI) carries with it the responsibility to be aware of and comply with the terms and conditions of award. This document provides NMBCA-specific guidance. The USFWS Award terms and conditions, which can be accessed on the Internet at <https://www.fws.gov/grants/atc.html>, are hereby incorporated by reference, and take precedence over any restatement, summary or interpretation of the same in this document.

II. PURPOSE

NMBCA Grant Administration Guidelines apply to all grants awarded to recipients with activities outside of the United States of America under the authority of NMBCA.

III. ASSISTANCE AWARD DOCUMENT, REPORTS & OTHER REQUIRED DOCUMENTATION

- A. Assistance Award: When the U.S. Fish and Wildlife Service (USFWS) approves funding for a Project Proposal (Proposal), the USFWS Grant Officer (Grant Officer) reviews the Proposal and assembles the pertinent documents. If the Grant Officer finds any problem related to compliance with law, policy, or administrative procedures, he or she contacts the Recipient's Project Officer (Project Officer) to seek a resolution. If there are no problems or once any problems have been resolved, the Grant Officer sends the grant recipient (Recipient) a signed grant agreement, which is entitled "U.S. Fish and Wildlife Service Assistance Award," will normally be mailed out within 90 days of approval of funding by the USFWS. This agreement does not require your signature.

If the Grant Officer has not received a written notice declining the award or requesting a delay of the execution date from the Recipient within 14 days of the date the Recipient receives the Assistance Award, the funding period of the project will begin on the date designated on the Assistance Award and allowable pre-agreement costs can be reimbursed.

B. Performance Reports:

1) Reporting Period:

- a.) If the Project period is less than one year, the Recipient must send to the USFWS Grant Officer a final performance report, final budget-expenditure comparison, and a final Financial Status Report (SF 425) within 90 days of the end of the Project period.
- b.) If the Project period is one to two years, the Recipient must send to the USFWS Grant Officer: (a) an intermediate performance report, final budget-expenditure comparison, and an intermediate Financial Status Report within 90 days **of the end of the first half of the Project period**; and (b) a final performance report, final budget-expenditure comparison and a final Financial Status Report (SF-425) within 90 days of the end of the **second half of the Project period**.
- c.) If the Project period is two years or greater (due to extension), the Recipient must send the USFWS Grant Officer: (a) an annual Performance Report, final budget-expenditure comparison, and annual Financial Status Report (SF-425) within 90 days of the end of each year; and (b) a final performance report, final budget-expenditure comparison, and final Financial Status Report (SF-425) within 90 days of the end of the Project period.

2) Report Requirements:

The performance report is a narrative report that describes the grant recipient's progress toward meeting the proposed project objectives.

Both annual and final performance reports must include or be accompanied by:

- a) a comparison of grant- and match-funded actual accomplishments for each proposed project objective for the period covered and explanation of any differences;
- b) a comparison of proposed versus expended grant- and match dollars;
- c) a Financial Status Report (Standard Form 425)

See the “NMBCA Reporting Guidelines” for more information.

3) Additional Final Report Requirements:

The final performance report must also include or be accompanied by:

- a) map(s) indicating the boundaries of all interests in real property that the recipient, sub-recipient, other partner, or match provider has purchased, restored, created or enhanced with NMBCA or matching dollars or accepted as in-kind matching donations.
- b) Geographic Information System (GIS) Shapefiles of all the interests mentioned in (a) above. [If you do not possess this GIS capability, please contact us.]; and
- c) One copy of any product produced as a result of the project, such as books, articles, educational materials, scientific publications of research findings. Electronic copies are preferred over hardcopies.

C. Other Documentation that may be required:

1) If the Recipient, sub-recipient, or match provider acquires an interest in real property with NMBCA funding or acquires the real property with matching funds or as a matching in-kind donation, the Recipient must send the USFWS Grant Officer documentation as provided in Sections VII.A. through VII.B. with the subsequent annual or final report.

2) Additionally, the following item is required as soon as an interest in real property is identified as a potential acquisition and before any offer is made to the owner:

The Recipient must send the USFWS Grant Officer the acreage, boundaries, and map location of any interest in real property to be acquired with NMBCA dollars if such real property was not identified in the original Project Proposal with a brief explanation of why it was selected and how it fits into the proposed project. (See Section VIII, for additional information and requirements regarding project modifications.)

IV. FINANCIAL ADMINISTRATION

A. Matching Donations:

1. *Definition of matching cash:* For NMBCA project activities implemented outside the United States and Canada [but including US Virgin Islands (USVI) and Puerto Rico], the matching donation can be cash or in-kind contributions. Matching cash is any cash that complies with the Federal Cost Principles in OMB Circular A-122. (“Federal” in this document refers to the national government of the USA.) Matching cash must be contributed to or by a Recipient to be expended to accomplish the purposes of the Project. The Recipient may obligate the cash itself for the purposes of the Project or may subaward it to a subrecipient to accomplish the purposes of the Project. If money has been used to incur costs for project purposes before the USFWS receives the Proposal, it will be considered as a matching in-kind contribution regardless of how it is described in the letter committing it as match.

2. *Definition of matching in-kind contribution:* Matching in-kind contributions are not allowed as match for project activities carried out within the United States of America or Canada, but are allowable for project activities carried out outside of the United States and Canada, as well as in the USVI and Puerto Rico. A matching in-kind contribution is property or services that benefit a NMBCA-funded project and which are contributed by either the grant recipient, a subrecipient, or a non-Federal third party without charge to the grantee. Matching in-kind contributions may be in the form of real property, equipment, supplies and other expendable property, and the goods and services directly benefiting and specifically allocated to the NMBCA project.

3. *Meeting the matching requirements:* At the end of the Project period, if the total amount of match contributed by partners and grantee, does not equal the amount listed in Section 13 of the Assistance Award, the amount of NMBCA funding will be disallowed by an equal proportion. When such a disallowance occurs, the Recipient must return to USFWS any NMBCA funding received in excess of the newly established allowable amount. The Recipient may not receive any new NMBCA grants until the repayment of these funds.

- B. Pre-Agreement Costs: USFWS authorizes pre-agreement costs not to exceed the amount entered for “This obligation” in the “FWS” column in Block 13 of the Assistance Award. The Recipient or subrecipient must not have incurred pre-agreement costs before the date that the USFWS receives the Proposal for any part of the Project to be funded with NMBCA funding.

Costs are incurred on:

- the earlier to occur of placing an order, signing a contract, or performing or receiving a service; or
- the earlier to occur of (1) taking title to real property or (2) the purchaser becoming legally obligated to purchase an interest in real property, with all contingencies placed on the purchaser’s obligations having been satisfied. *[An instrument for a legal obligation to purchase in the USA might be called an exercised option, a purchase agreement, contract of sale, sales contract, deposit receipt, offer and acceptance, agreement of sale, offer to lease or purchase, or sale agreement.]*

All pre-agreement costs are incurred at the applicant’s risk. Such costs are allowable only to the extent that they would have been allowable if incurred after the date that the USFWS signs the Assistance Award and during the Project period. The USFWS is under no obligation to reimburse such costs if the applicant has not:

- received award funding adequate to cover such costs;
- prior to incurring the cost of the acquisition of real property, equipment, supplies, or services, ensured that the acquisition or activities associated with the acquisition will comply with the following:
 1. the National Historic Preservation Act of 1966, as amended, Appendix 1, Section 402 (16 USC 470a-2) , which applies to any property on the World Heritage List or on the applicable country’s equivalent of the National Register;
 2. other applicable national, state or local laws and regulations in the countries where projects occur.

USFWS is under no obligation to accept equipment, supplies, or services unless the applicant has, prior to becoming contractually committed to acquire the equipment, supplies, or services, ensured that all associated project activities will comply with other applicable national, state or local laws and regulations in the countries where projects occur. [And See Section VIII.E.]:

This section constitutes prior written approval for any pre-agreement costs that: (a) qualify under its provisions, (b) are in compliance with other applicable country’s national, state, and local laws and regulations, and (c) are in compliance with other applicable provisions of NMBCA Grant Administration Guidelines.

- C. Financial Management System: The Recipient shall maintain a complete, detailed accounting system to report expenditures of NMBCA funds and a detailed accounting of receipts and expenditures of U.S. non-Federal and applicable country’s organizations’ matching funds or value of equipment and services. All records must be identifiable for the specific grant. Reports summarizing these accounting records must be maintained and shall be submitted as part of the final report, with detailed records upon demand if special audits are required.

- D. Matching Funds Sources and Use: All funds or in kind contributions used as match against NMBCA funds shall not be from U.S. Federal sources and shall not previously have been used as match required for other U.S. Federal funds.

- E. Payment Management System: Please check the DBHC website <https://www.fws.gov/migratorybirds/pdf/grants/payments-non-us.pdf> at for updates to this section. The Recipient must comply with enrollment procedures to facilitate payments and reimbursements. The recipients outside the USA may need to work with a US intermediary bank.

F. Advance Payments and Reimbursements:

- 1) Cash advances to a recipient organization shall be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the recipient organization in carrying out the purposes of the approved project. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the recipient organization for direct program or project costs and the proportionate share of any allowable indirect costs.
- 2) If a recipient draws down more than \$10,000 in Federal funds as a cash advance, but the intended transaction is postponed, the funds received must be promptly refunded to the Federal program agency and redrawn when needed.
- 3) The only exceptions to the requirement for prompt refunding are when the funds involved will be disbursed by the recipient organization within seven calendar days, or are less than \$10,000 and will be disbursed within 30 calendar days. This also applies to subrecipients.
- 4) If the Recipient elects to receive the option to take advance payment at anytime during the project period, the Recipient may send the USFWS Grant Officer a quarterly cash transaction report (SF 425), whether or not any cash transactions occurred, via email. The report is due 30 calendar days after each quarter ends. The quarters end on March 31, June 30, September 30 and December 31. Failure or late reporting may result in the withholding of grant payments.
- 5) In summary, recipients may request cash advance payment when all of the following requirements are met:
 - The recipient is successfully enrolled in a TBD payment management system.
 - The advance is requested during the funding period designated on the Assistance Award.
 - The recipient maintains procedures to minimize the time elapsing between the transfer of the actual immediate cash requirements and the disbursement by the recipient and sub-recipient.
- 6) Generally, advances shall be maintained in interest bearing accounts (see 43 CFR 12.922 (k) for exceptions). The Recipient may retain interest amounts up to \$250 per year for administrative expenses as established in 43 CFR 12.922 (l). Interest earned in excess of \$250 on advances shall be remitted annually to the USFWS.
- 7) For recipients receiving multiple concurrent awards, separate depository accounts are not required, but recipients must be able to account for the receipt, obligation, and expenditure of funds under each specific NMBCA grant.
- 8) Special award conditions may be applied should the Recipient not conform to the terms and conditions of the entire award. These conditions may include, delayed payment; reimbursement only (no advances); manual review of payment requests; withholding authority to proceed to next phase of a project; requiring more detailed financial reporting; and additional project monitoring. A history of failure to perform in accordance with the terms of the Award may lead to suspension or debarment from receiving future awards.
- 9) Quarterly financial reports **do not substitute** for the annual and final Financial Status Reports (SF 425) required of all Recipients as described above.
- 10) Recipients declining the option to request advance payments are not required to submit quarterly financial reports.

V. SPECIAL PROVISIONS APPLICABLE TO ALL PROJECTS

A. Equipment:

Equipment means tangible personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. Title to all equipment acquired for the Project will vest in the Recipient or subrecipient. Recipients and subrecipients will follow the provisions of this Section for the use, management, and disposal of equipment purchased with NMBCA funding or matching dollars or received as a matching in-kind donation.

The Recipient or subrecipient must use the equipment acquired for the Project as long as needed, whether or not the Project continues to be supported by Federal funds. While the equipment is used for the Project, the Recipient or subrecipient must make it available for use on other projects or programs if such other use will not interfere with the work on the project for which the equipment was originally acquired. The Recipient or subrecipient must give first preference for such other use to other projects or programs sponsored by the

Department of the Interior and second preference to projects and programs sponsored by other Federal agencies.

The Recipient must make a physical inventory of equipment at least once every two years and reconcile the results with the equipment records. The Recipient must, in connection with the inventory, verify the existence, current utilization, and continued need for the equipment. The Recipient must ensure that adequate maintenance procedures are implemented to keep the equipment in good condition.

When acquiring replacement equipment, the Recipient or subrecipient may use the equipment to be replaced as trade-in or sell the equipment and use the proceeds to offset the costs of the replacement equipment subject to USFWS's prior approval. In some cases, a Recipient may no longer need, for the purposes of the Project, any original or replacement equipment acquired with NMBCA funding or matching funds or received as a matching in-kind donation. The Recipient must request disposition instructions from the Grant Officer, who will determine whether the equipment can be used to meet the requirements of a Project or program authorized for support by the United States Department of the Interior. If no such requirement exists, the Grant Officer will report the availability of the equipment to the General Services Administration, which will determine whether a requirement for the equipment exists in other Federal agencies. If a Federal agency does not need the equipment and it has a current per-unit fair market value of less than \$5,000, the Recipient or subrecipient may retain, sell, or otherwise dispose of it with no further obligation to USFWS. If such equipment has a current per-unit fair market value of more than \$5,000, the Grant Officer will issue instructions to the Recipient no later than 120 calendar days after the Recipient's request.

B. Supplies and Other Expendable Property: The provisions of this section will apply to all supplies and other expendable property purchased with NMBCA funding or matching dollars or received as a matching in-kind donation. Title to such supplies and other expendable property will vest in the recipient or subrecipient upon acquisition. If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the Project and the supplies are not needed for any other federally sponsored project or program, the Recipient or subrecipient will retain the supplies for use on non-federally sponsored activities or sell them, but must, in either case, compensate the Federal government for its share.

C. Information Releases: News releases or other information on the Project, or about project outcomes, that are published or released for publication by the Recipient or subrecipients must acknowledge that funding was provided by NMBCA and the USFWS. Copies of press releases and other publicity shall be sent to the Grant Officer.

D. USFWS Access to Information: Upon reasonable notice, the USFWS shall have free and unencumbered access and use of all materials, data, and accounting, receipts, and expenditures records produced under a NMBCA Grant project.

E. Government Right to Publish and Use Data: Unless specifically waived by USFWS, the Federal Government has the right to:

- (1) Obtain, reproduce, publish or otherwise use the data first produced under an Award; and
- (2) Authorize others to receive, reproduce, publish, or otherwise use the data for Federal purposes.

F. Publications:

Publication of any reports or parts thereof by Recipient's personnel shall be subject to USFWS review and comment. Authorship shall not incur any privileges of copyright nor restriction on distribution. Appropriate credits to the United States Department of the Interior, Fish and Wildlife Service, shall be in any formally published article providing the USFWS does not otherwise feel it appropriate to issue a disclaimer.

Two copies of each publication produced under this Agreement shall be sent to the Natural Resources Library with a transmittal that identifies the sender and the publication. The address of the Library is:

U.S. Department of the Interior
Natural Resources Library, Division of Information and Library Services, Gifts and Exchange
Section
1849 C Street, NW, Washington, DC 20240

G. Site Monitoring: Recipient agrees to work cooperatively with the USFWS in developing a site-inspection schedule for purposes of assessing the condition and integrity of the completed project objectives, and for auditing organizational systems, if requested.

H. USFWS Logo: Use of the logo by itself is not allowed on publications from the Recipient or partners, unless the publication has been reviewed and approved by USFWS and that the content is in line with the USFWS position and corresponds with current policy or regulation. However, the Recipient or partners may use the USFWS logo next to this sentence: "Support for this project was provided through a grant by U.S. Fish and Wildlife Service, NMBCA Grant Award number xx-xxxx." If you need a digital file of the logo, please send a request to the Division of Bird Habitat Conservation.

I. Information Access: Recipient shall provide copies of reports, maps, or any other information generated by this project to any person or organization that requests it, in a timely manner.

VI. SPECIAL PROVISIONS APPLICABLE TO HABITAT RESTORATION & ENHANCEMENT

- A. Management for Project Purpose: The Recipient or subrecipient must ensure that any habitat restored, enhanced, and/or created is managed, after the grant period, for the purposes for which it was intended in the Project. If the Recipient or subrecipient does not ensure that such habitat is managed for the Project purpose in whole or in part, it agrees to pay USFWS for that percentage of the current fair market value of the original habitat restoration, enhancement, or creation attributable to the Federal participation in the Project. A Recipient or subrecipient must determine the current fair market value by obtaining at the Recipient's or subrecipient's expense an appraisal completed according to nationally recognized appraisal standards and subject to USFWS's review and approval.
- B. Inspection: The Recipient must ensure that any habitats restored, enhanced, or created in the Project (including such work completed with matching funds or as a matching in-kind contribution) are available for site-inspection by the USFWS or its designee to ensure that such habitat is managed for the purposes for which it was intended in the Project. The requirements of this Section will be in force for 25 years from the end of the Project period unless limited by easements, leases, other legal instruments, or special considerations described in the Proposal or approved by the Grant Officer.

VII. SPECIAL PROVISIONS APPLICABLE TO REAL PROPERTY ACQUISITION

- A. Real Property:
1. Real property means land, including land improvements, structures, and appurtenances such as trees, grass, and other plants growing on the land except crops. Easements are real property.
 2. Real property acquired with NMBCA funds or matching funds must be purchased at or below the appraised value. Recipient shall provide a third-party appraisal (if third-party appraisers are available in country) to the USFWS Project Officer for approval as soon as possible prior to the purchase of the real property. The appraisal shall be completed according to generally accepted standards and procedures currently in use in the applicable country. The recipient will submit a description of such standards and refer to applicable laws (providing a web page showing a copy of the law, if available).
 3. a. ***For land rights acquired with NMBCA grant funds (does not apply to rights acquired exclusively with match)***: Only host country organization can own land rights (fee title, grazing rights, etc.) paid in part or in full with NMBCA grant dollars. If NMBCA funds are used to buy land (but not grazing right, easements, etc.), then the Recipient must send the Grant Officer a copy of a letter from the government agency that is responsible (as determined by the Recipient), stating that the agency understands that this acquisition is made with NMBCA funds. If that agency is a proposed partner in the project, please not this in the letter. The letter need not be addressed to us but should name the NMBCA project. This letter is separate and different from our usual match contribution letter.
 3. b. ***For land rights acquired with match***: Any organization can buy land rights (fee title, grazing rights, etc.) with match funds or can put land in any country up as match. Any acquisition with match funds requires a match letter, but not a letter from the government agency on this acquisition.
- B. Documentation: The Recipient shall submit to the Grant Officer copies of the closing statement or formal receipt showing the price paid, and the recorded deed, registered escritura, or other instrument conveying title to any interest in real property purchased with NMBCA funds or matching funds or as a matching in-kind donation as soon as practicable but no later than the subsequent annual or final report.

- C. Displaced Persons: If any tenant(s) will be displaced by a project, the Recipient must provide relocation assistance to the displaced tenant(s), including reasonable moving or paying expenses associated with moving the tenant(s) and his or her personal property.
- D. Long-term Conservation: Real property purchased with NMBCA funds or matching funds or as a matching in-kind donation shall be held and administered primarily for the long-term conservation of neotropical migratory birds, biodiversity and other natural resources, in accordance with the project purposes.
- E. Property Inspection: The Recipient shall allow representatives of the USFWS to inspect the real property acquired with NMBCA funds or matching funds or as a matching in-kind donation, following reasonable advance notice, for the purpose of ensuring that the property is managed in accordance with the purposes of the project, and for the long-term conservation of wildlife and other natural resources.
- F. Real Property Disposal: The Recipient must use the interest in real property for the project's authorized purposes. The USFWS will be the final arbiter of when an interest in real property will be no longer needed for the project's authorized purposes. Except as specified in the proposal, the Recipient or subrecipient who commits the interest in real property to the project may not:
 - 1) encumber the interest in real property without the approval of the USFWS (encumber means to attach a claim, liability, or some other right to real property and make it binding on the same, such as a lien, mortgage, easement, or servitude).
 - 2) dispose of the interest in real property, or any part of the same, without requesting the prior approval of the USFWS. Any disposal unapproved by the USFWS will obligate the recipient to compensate USFWS the attributable share of the value of the property.
 - 3) When real property ceases to be used for the project purposes, the USFWS must be compensated its attributable share of the value of the property removed from the project. The proportion of attributable share is derived from the approved grant to match ratio.

VIII. MODIFICATIONS (Official Amendments to Assistance Awards)

A. Prior Approvals

The Recipient must request prior written approval of the Grant Officer for any change of a provision of the Assistance Award and any of the following changes of the Proposal:

- changes in the scope and objective of the Project (regardless of whether there is an associated budget revision requiring prior approval) including but not necessarily limited to, changes in the Project Purpose, extension of the Project period except as provided below, changes in the Project area, a change in the proposed titleholder of any interests in real property purchased or donated for the Project, a cumulative decrease of any proposed acreage achievements in for example acquisition or restoration activities, and changes in the matching contributions;
- the transfer from a non-administrative or non-overhead direct-cost budget item (e.g., Acquisition, Restoration, or Enhancement, or other specific objective) to an indirect cost or direct-cost category labeled as administration, overhead, or an equivalent designation;
- the inclusion of costs that are not allowed in accordance with the Federal Cost Principles or the policy of the NMBCA Grants Program; and
- the inclusion of costs that require prior approval in accordance with the applicable Federal Cost Principles, including (i) changes in the specific parcels or interests in real property to be acquired, and (ii) identification of the specific parcels or interests in real property to be acquired for projects where such parcels or interests were not identified in the original proposal.

The Recipient must consult with the Grant Officer as soon as he or she becomes aware of any potential change in the scope, match contribution amount, or acreage objectives of the project. The Recipient must initiate such consultations whether the potential change is the initiative of the Recipient or dictated by forces beyond the Recipient's control. An example of the latter is an unforeseen escalation of land prices that will: (a) reduce the number of acres or the type of interests in real property that can be acquired in the project (e.g., easement instead of fee title); or (b) change the types of habitats that can be acquired in the project.

The Recipient must send all requests for prior approval to the Grant Officer at least 30 days in advance of the desired implementation. The Recipient must include a narrative justification for the requested changes in the Grant Agreement or Proposal. A request for prior approval of any budget revision must be accompanied by a revised budget table in the same format as in the original Proposal. Note that the Grant Officer does not have the authority to increase the Federal funding awarded to this Project.

- B. Change of Project Officer: Although prior approval is not required, the Recipient must notify the USFWS of a change of the Recipient's Project Officer or his or her address, telephone/fax number, or E-mail address as soon as the change is implemented. Project Officers must be familiar with the details of a proposal and the progress in completing the Project.

Project Officers must also be available to discuss the project with the Grant Officer by telephone or E-mail. The Grant Officer reserves the right to request another Project Officer if the Grant Officer anticipates or experiences significant problems in contacting or obtaining information from the designated Project Officer.

- C. One-Time Extension of Project Period: Recipients may initiate a one-time extension of the expiration date of the award of 12 months unless the extension involves any change in the approved objectives, scope, or purpose of the Project. For one-time extensions, the Recipient must notify the Grant Officer in writing, with the supporting reasons and revised expiration date, at least 10 days before the expiration date that is specified in the Award in box 11. All extensions are “no cost” and may not be exercised merely for the purpose of using unobligated balances. Any extension after this one-time Recipient-initiated extension will require the Grant Officer’s prior written approval.
- D. Case by Case Exceptions: Except as required or authorized above, USFWS waives the requirement for all other cost-related or administrative prior approval requests authorized in 43 CFR 12.70 and 43 CFR 12.925. In addition to the above potential modifications of the Assistance Award, the Recipient may request that the Grant Officer allow, in unusual situations, an exception to any requirement of the Assistance Award that is derived from the Federal grant regulations in 43 CFR, part 12, or NMBCA program policy. The Grant Officer will only approve such exceptions on a case-by-case basis and when the request is supported by a persuasive written justification. To ensure that consistent criteria are applied to all subsequent requests for exceptions and modifications, the Grant Officer must develop decision criteria to be applied to current and future requests before approving or disapproving the request.
- E. National Historic Preservation Act (Section 402 (16 U.S.C. 470a-2)) Prior to the approval of any Federal undertaking outside the United States which may directly and adversely affect a property which is on the World Heritage List or on the applicable country’s equivalent of the National Register, the Grant Officer must be made aware of and take into account any effect of the undertaking on such property for purposes of avoiding or mitigating any adverse effects.

IX. TERMINATION USFWS may terminate this award in whole or in part if a Recipient fails or, if during a project, is failing to comply with the terms and conditions of an award. If a Recipient, without prior consultation with the Grant Officer, incurs costs to implement a project that will fail to achieve the project's objectives, the USFWS may terminate the grant in whole or in part. The USFWS may also terminate this award with the consent of the Recipient, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The Recipient may terminate the award upon sending to USFWS written notification setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if USFWS determines in the case of partial termination that the reduced or modified portion of the grant will not accomplish the purposes for which the grant was made, it may terminate the grant in its entirety. If an award is terminated, the Recipient remains responsible for submitting a final report and for managing and disposing of property according to the guidelines..

X. CERTIFICATIONS Through acceptance of a NMBCA Assistance Award the Recipient’s Project Officer certifies on behalf of the recipient organization that:

- A. Certification Regarding Proposal Submission The Assistance Award is for the support and stimulation of the recipient’s project; that the request for Financial assistance and the related proposal have not been submitted in response to a request from the Government to undertake work to support a specific Government project; and that the proposal has been prepared without the assistance and/or input of Federal personnel. However, this statement excludes the general technical assistance provided by USFWS staff to all applicants and grantees as needed or requested.
- B. Certification Regarding Conflict of Interest There are no relevant facts or circumstances that could give rise to an individual or organizational conflict of interest. Such conflict of interest could involve such things as US Government employees being associated with or being a member of the requesting organization and being in a position to influence the awarding of a grant. The Recipient agrees that if an actual or potential conflict of interest is discovered, the Recipient shall make a full disclosure in writing to the Grant Officer. This disclosure shall include a description of actions, which the Recipient has taken or proposes to take, after consultation with the Grant Officer, to avoid, mitigate or neutralize the actual or potential conflict.
- C. Certification Regarding Debarment, Suspension, and Other Responsibility Matters (DI2010 June 1995) 2 CFR Part 1400, Government wide Debarment and Suspension (Nonprocurement) (<https://www.ecfr.gov/cgi-bin/text-idx?SID=74f91e8c85e28667e39572636b821d9a&tpl=/ecfrbrowse/Title02/2chapterXIV.tpl>)
 - (1) The prospective primary participant certifies to the best of its knowledge and belief, that it, its principals and lower tier participants:
 - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

- (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

- (2) Where the prospective primary or lower tier participant is unable to certify to any of the statements in this certification, such prospective participant(s) shall attach an explanation to this proposal and send it to the USFWS Grant Officer.

D. Certification Regarding Lobbying (DI2010 June 1995) 43 CFR Part 18, New Restrictions on Lobbying (https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title43/43cfr18_main_02.tpl)

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an Agency, a Member of Congress, and officer or employee of Congress, of an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The language of this certification shall be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and all subrecipients shall certify accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31 U.S. Code.

E. Certification that the organization and project officer are aware of and will comply with the following provisions (links to these references can be found in the "Foreign Entities" section of the "U.S. Fish and Wildlife Service Financial Assistance Award Terms and Conditions Effective Date: October 1, 2018" document:

- Administrative Requirements: 2 CFR Part 200, Subparts A through D. The state payment procedures in 200.305(b) do not apply to foreign public entities. Foreign public entities must follow the payment procedures in 2 CFR 200.305(b). The requirements in 2 CFR 200.321 and 200.322 do not apply to foreign entities.
- Cost Principles: 2 CFR Part 200, Subpart E
- Indirect Cost Rate Approval: Indirect Cost Identification and Assignment and Rate Determination by the Department of the Interior
- 2 CFR Part 25, Universal Identifier and System for Award Management, unless the entity meets at least one qualifying condition and is exempted by the Service prior to award as provided for in 2 CFR Part 25.
- 2 CFR Part 170, Reporting Subawards and Executive Compensation Information
- 2 CFR Part 175, Award Term for Trafficking in Persons. Applies to awards to foreign private entities. Also applies to awards to foreign public entities, if funding could be provided under the award to a private entity as a subrecipient. See the award term for definitions.
- 2 CFR Part 200, Appendix XII, Award Term and Condition for Recipient Integrity and Performance Matters. Applies to awards with a total Federal share of more than \$500,000, except those awards to foreign public entities.

- 2 CFR Part 1400, Nonprocurement Debarment and Suspension. This does not apply to foreign public entities.
- 43 CFR 18, New Restrictions on Lobbying: Submission of an application also represents the applicant's certification of the statements in 43 CFR Part 18, Appendix A, Certification Regarding Lobbying.
- 41 USC §6306, Prohibition on Members of Congress Making Contracts with Federal Government. No member of or delegate to the United States Congress or Resident Commissioner shall be admitted to
- any share or part of this award, or to any benefit that may arise therefrom; this provision shall not be construed to extend to an award made to a corporation for the public's general benefit.
- Section 743 of Division E, Title VII of Pub. L. 113-235, Prohibition on Issuing Financial Assistance Awards to Entities that Require Certain Internal Confidentiality Agreements. Recipients must not require their employees or contractors seeking to report fraud, waste, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or contractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a federal department or agency authorized to receive such information. Recipients must notify their employees or contractors that existing internal confidentiality agreements covered by this condition are no longer in effect.
- Executive Order 13513, Federal Leadership on Reducing Text Messaging while Driving. Recipients are encouraged to adopt and enforce policies that ban text messaging while driving, including conducting initiatives of the type described in section 3(a) of the Order