Attachment

Definitions and Key Regulations

NPS State and Local Assistance Programs:
Land and Water Conservation Fund Programs
Urban Park Recreation and Recovery Program

Below is a summary of definitions and key regulations from the LWCF Act, Post Completion Compliance Regulations and the LWCF Program guidance manual:

- **Financial Assistance to States -** 54 U.S.C. § 200305(c): Grant assistance is provided on a matching basis for up to fifty percent (50%) of a proposal's budget to States, and in certain cases, Sub awarded to other units of government. Grants to eligible insular areas can be for up to 100% of a proposal's budget.

- **Responsibility of lands provided LWCF grant assistance -** (54 U.S.C. § 200305(f)(1)): The NPS does not own, control, or maintain LWCF protected sites once the grant is awarded. "The approval of all projects and all payments, or any commitments relating thereto, shall be withheld until the Secretary receives appropriate written assurance from the State that the State has the ability and intention to finance its share of the cost of all of the projects, and to operate and maintain by acceptable standards, at State expense, the properties or facilities acquired or developed for public outdoor recreation use." "If consistent with an approved project, funds may be transferred by the State to local political subdivision or other appropriate public agency" however, the State is the primary recipient of all LWCF assistance regardless of the project sponsor and assumes responsibility to comply with the terms of the agreement and all contractual obligations.

- **Ownership of lands provided LWCF grant Assistance -** LWCF Manual, Chapter 3.A.8, page 23 and 24: "The project sponsor must possess sufficient title and adequate legal control of the property to be within the LWCF boundary area."

- **Open and Accessible to the public for outdoor recreation within three (3) years of approval of the federal assistance for acquisition:** LWCF Manual Chapter 3.B.7, Page 26: "LWCF assistance may be available to acquire property for which development of outdoor recreation facilities is planned at a future date. In the interim, between acquisition and development, the property should be open for those public recreation purposes that the land is capable of supporting, or that can be achieved with minimum public investment." "Assurance that the site

will be available for public outdoor recreation use and any non-recreation activity will be terminated within 3 years from the date of acquisition" (LWCF Manual Chapter 3.B.7.(b)).

- **LWCF Conversion to other than public outdoor recreation use -** 54 U.S.C. § 200305(f)(3): "The Secretary *shall approve* a conversion only if the Secretary finds it to be in accordance with the then-existing comprehensive statewide outdoor recreation plan and only on such conditions as the Secretary considers necessary to ensure the substitution of other recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location." The phrase "Shall approve" is what the LWCF Program identifies in the Act which limits NPS discretion to ensuring requirements of the Act and regulations have been met, and from denying a conversion when those requirements are met.

- **LWCF Boundary Area -** LWCF Manual, 36 CFR § 59.1: Post completion responsibilities cited in the regulations apply "to the area depicted or otherwise described on the 6(f)(3) boundary map..." (36 CFR § 59.1).

- **LWCF Conversion Requirements -** 36 CFR § 59.3(b)(1-3); "…NPS will consider conversion requests if the following prerequisites have been met:" The prerequisites within this section are the limiting factors of NPS authority and discretion.

- **LWCF Replacement Property Provision -** 36 CFR § 59.3(b)(3)(iii)(4) and 36 CFR § 59.3(b)(3)(i): "The property proposed for substitution meets the eligibility requirements for a L&WCF assisted acquisition. The replacement property must constitute or be part of a viable recreation area." "Property to be converted must be evaluated in order to determine what recreation needs are being fulfilled by the facilities which exist and the types of outdoor recreation resources and opportunities available. The property being proposed for substitution must then be evaluated in a similar manner…"

- **UPARR Conversion Requirements** - Section 1010 of the UPARR act, codified at 54 U.S.C. 200507: "The Secretary *shall approve* such a conversion only if the Secretary finds it to be in accord with the then-current local park and recreation recovery action program and only on such conditions as the Secretary considers necessary to ensure the provision of adequate recreation properties and opportunities of reasonably equivalent location and usefulness."