

LAND AND WATER CONSERVATION FUND

FEDERAL FY23 GRANT APPLICATION INFORMATION



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BACKGROUND

Authorized by the United States Congress and signed into law by President Lyndon Johnson, the LWCF Act of 1965 established a federally funded program to provide 50/50 matching grants to state and local governments for the purpose of acquiring and/or developing public outdoor recreational areas and facilities. The program is administered nationally by the United States Department of the Interior, NPS with the supporting revenues generated from offshore oil and gas leases. The LWCF is intended to create and maintain a nationwide legacy of quality public outdoor recreational resources as well as to stimulate non-federal investments in the purchase, development, maintenance and protection of these highly valued outdoor recreational areas. Per section 6(f)(3) of the LWCF Act, “No property acquired or developed with assistance under this section shall, without the approval of the Secretary of the Department of the Interior, be converted to other than public outdoor recreation uses.”

The LWCF is managed at the state level, by the state governments. In order to be eligible to receive a program apportionment from the NPS, each state must develop and maintain a Statewide Comprehensive Outdoor Recreation Plan and appoint an official State Liaison Officer. All eligible projects must reflect the states’ policies and priorities of its most current Statewide Comprehensive Outdoor Recreation Plan; in Maryland this plan is the Maryland Land Preservation and Recreation Plan. Municipalities and counties may apply for up to 50 percent matching fund assistance from the LWCF. In Maryland, the MD DNR, Land Acquisition and Planning Unit, is responsible for managing the program, coordinating grant rounds for project funding, and monitoring past project sites for program compliance in Maryland. Since its inception, the LWCF program has funded over 400 acquisition and development projects throughout the state of Maryland.

APPLICATION SUBMISSION INFORMATION *Grant Round Federal FY23*

MD DNR is now accepting Preliminary Application forms for Grant Round Federal FY23. Preliminary Applications are due by 5 p.m., July 31, 2023. Municipalities and counties are eligible for up to a 50 percent matching fund assistance from the LWCF. Program Open Space Local funds or Community Parks and Playground grant funds may be used as the match. If using Program Open Space Local funds as match for a development project, please note that county match requirements will apply. The maximum LWCF assistance grant request is \$1,000,000 (\$2,000,000 maximum total project cost) and the minimum LWCF assistance grant request is \$50,000 (\$100,000 minimum total project cost). Exceptions may be granted by the Department in certain circumstances based on project applications received and available grant funds.

Upon receipt, preliminary applications will be reviewed to determine eligibility and scored with Maryland’s approved Open Project Selection Process (OPSP). MD DNR will invite those applications with the highest grant score to officially apply for LWCF assistance. In addition, the applicant will be required to sign an agreement with MD DNR, which acknowledges responsibility for compliance with the Land and Water Conservation Act of 1965; signing this agreement is a condition for DNR to submit the application to the NPS. The NPS will review project applications, and if approved for LWCF assistance, will provide a project start date. Applicants should be aware that development and acquisition projects must be completed within three years from the provided start date. Only expenditures incurred within the approved LWCF project period are eligible for reimbursement. Grantees do not receive funds at the time of approval. The applicant must incur 100 percent of the total project cost; submit evidence of eligible expenditures throughout project implementation and payment thereof; and request reimbursement from MD DNR after the project has been completed and NPS has officially closed the grant. Expenses incurred prior to authorization of the LWCF grant agreement or after the expiration date are ineligible for reimbursement.

Eligible Project Types

Projects must be in direct support of public outdoor recreational uses of related properties and/or facilities. Projects must support State Land Preservation and Recreation Plan goals (listed at the end of this information packet). Eligible project types are as follows:

Eligible Projects

LWCF assistance is available to public jurisdictions for:

- Land acquisitions for the use of public outdoor recreation, which includes purchase of fee simple title of property for public use. This can be acquisition of abutting land to an existing developed recreational area, or undeveloped property to establish a new outdoor recreational area. Acquisitions using LWCF assistance must be open to the public within three years of purchase date.
- Development/rehabilitation projects for the use of public outdoor recreation. This includes new amenities/facilities or renovation/improvements of existing outdoor recreation facilities, including design and construction work. Multiple development projects at the same park may be applied for under one grant application.

Eligible Cost Examples (*There is no complete list of eligible project costs; please see the LWCF Grant Manual for more details*):

- Trails
- Swimming and boating facilities
- Land purchase for public outdoor recreation
- Picnic facilities
- Camping facilities
- Fishing and hunting facilities
- Nature study and wildlife watching facilities
- Athletic fields (e.g., soccer fields, tennis courts, basketball courts, softball fields)

Ineligible Cost Examples

- Land purchase primarily for historic sites and historic preservation
- Restoration of historic structures
- Facilities such as recreation centers, gymnasiums, or indoor pools for public *indoor* activities
- Museum maintenance or archaeological excavations
- Projects on school sites
- Athletic fields/facilities for semi-professional or professional athletes
- Sites containing luxury lodges, hotels, restaurants
- Agricultural land or any commercial leases
- Incidental costs relating to acquisition
- Indirect costs and/or administrative fees

Maryland Department of Natural Resources, Land and Water Conservation Fund Competitive Grant Scoring:

The LWCF grant award through the MD DNR focuses on awarding funding to projects based on, but not limited to, the following:

1. Projects that are ready to proceed immediately should funding be approved by the NPS, will receive a higher competitive score.
2. Projects that align with specific goals and needs-based planning objectives from the 2022 County Land Preservation, Parks, and Recreation Plans will receive a higher competitive score.
3. Projects in counties that had a timely submission of the 2022 County Land Preservation, Parks, and Recreation Plans will receive a higher competitive score.
4. Projects that have a realistic timeline will receive a higher competitive score.
5. Projects that provide natural resource conservation and ecological value, on top of the outdoor recreational value, will receive a higher competitive score.
6. Projects that provide outdoor recreation amenities in high demand throughout the State of Maryland, such as water access and trails, will receive a higher competitive score.
7. Applicant jurisdictions that spend their Program Open Space Local funds in a timely manner will receive a higher competitive score.
7. Scoring will be influenced if jurisdictions have LWCF conversions in process.

Perpetuity Requirements

A major goal of the LWCF program is to increase the number of protected state and local outdoor recreation resources and to ensure their availability for public use in perpetuity. As stated in Section 6(f)(3) of the LWCF Act of 1965, sites receiving assistance are to be opened, operated, and maintained in perpetuity for “public outdoor recreation use,” or be replaced by lands of equal market value and recreation usefulness. All applicants should read the program compliance requirements in the LWCF Manual. The 6(f)(3) boundary is the legal description, metes and bounds, of the area that is being protected in perpetuity by Section 6(f)(3) of the Land and Water Conservation Act of 1965. Section 6(f)(3) states that the property acquired, developed or improved with LWCF assistance shall not be converted to uses other than public outdoor recreation. The 6(f) boundary map goes on record with the locality, NPS and the MD DNR, showing the area being placed under protection of the Land and Water Conservation Act. In most instances, the 6(f) boundary falls under an entire park being acquired or developed with LWCF assistance funds.

Signed and dated copies of the Section 6(f) map are required from all recipients of grant funds. Recipients of grant funds will also be required to record in the deed of the property that the area is protected through Section 6(f) of the LWCF of 1965. Deed wording will be provided to appropriate grant recipients.

HOW TO COMPETE FOR A LWCF GRANT AWARD

1. Read this Competitive Grant Information Packet and review the [2021 LWCF Manual](https://www.nps.gov/subjects/lwcf/upload/LWCF-FA-Manual-Vol-71-3-11-2021-final.pdf) (<https://www.nps.gov/subjects/lwcf/upload/LWCF-FA-Manual-Vol-71-3-11-2021-final.pdf>) as needed. The Manual

includes details about the program, grant eligibility, program rules and regulations, and examples of eligible projects.

2. Complete the ‘Preliminary Application’ application form. Email application form and required documents to andrew.mengel@maryland.gov & carrie.lhotsky@maryland.gov subject ‘LWCF Federal FFY23 Grant – *your jurisdiction name and title of project.*’ Due date is July 31, 2023 by 5p.m.
3. MD DNR will make selection decisions when NPS allows for the submission of new grant applications. MD DNR will reach out to schedule a site visit for those projects considered for funding.

Key Points to Remember

- Projects are reviewed in accordance with the intent of the LWCF program, the grant focus, state and federal grant requirements, need, and the scoring criteria.
- Projects are reviewed for consistency with the Maryland Land Preservation and Recreation Plan.
- The MD DNR will eliminate all those applications that are ineligible, incomplete, or do not follow grant cycle instructions.
- If you have any questions, please contact Andrew Mengel at andrew.mengel@maryland.gov or at 443-569-2827.

SUMMARY OF LWCF GRANTEE COMPLIANCE AND COMMITMENTS:

Properties acquired, improved or developed with LWCF assistance must be open, maintained and operated in perpetuity for public outdoor recreation. Other commitments include proper maintenance and operation, nondiscrimination, posting a LWCF Acknowledgement sign, and maintaining the integrity of the 6(f)(3) protected area boundary.

Acceptance of LWCF funding requires the grant recipient to assume responsibility for compliance with the Land and Water Conservation Act of 1965 and the program requirements therein, as well as all applicable Federal, State and Local laws. In signing the LWCF grant agreement with the MD DNR (after your project has been selected for funding), the applicant accepts the responsibility for compliance including the consequences of non-compliance. In most instances the 6(f) boundary falls under an entire park being acquired or developed with LWCF assistance funds, meaning LWCF compliance commitments are required in perpetuity over the entire park boundary.

Public Outdoor Recreation *in perpetuity* — Lands acquired and/or developed with LWCF funds must be opened to the public and maintained *in perpetuity* for public outdoor recreation. In rare instances, a portion of a LWCF site may be converted to another use with permission of the MD DNR and approval of the NPS. In instances where there is no feasible alternative to converting, either in full or in part, the protected area, Section 6(f) of the federal Land and Water Conservation Act of 1965 is triggered. This section requires that a conversion of use process be initiated to seek approval from the NPS for the conversion. Conversions are not a right. Alternatives to impacting the protected area must be investigated and evidence given that there is no feasible alternative. Conversions are situation specific and decided on a case by case basis. In all cases, the grantee will be required to develop an environmental assessment for the conversion project and purchase replacement property of equal or greater fair market value and equal or greater recreational usefulness as a replacement. The process involves many steps and takes, at a minimum, one year from initiation by the grantee with MD DNR to formal approval by the NPS.

Environmental, Historical and Cultural Resources — All projects must comply with the NEPA, the Endangered Species Act and the Historic Preservation Act. All projects carry potential impacts to the environment (stream sedimentation, noxious weeds, wildlife displacement, habitat fragmentation, visual, potential noise, etc.). In addition to demonstrating compliance with the Endangered Species Act and Historic Preservation Act, all conversions and some acquisition/development projects require an Environmental Assessment document for NEPA compliance. This document is submitted as part of the package the NPS requires for approval.

Public Comment — Solicitation of public comment is required for all applications.

Compliance with the Americans with Disabilities Act (ADA) — All projects must comply with ADA. All projects must be accessible to (and usable by) disabled citizens. The intent is to enable disabled citizens to participate in outdoor recreation activities in a way that parallels as closely as possible with participation of non-disabled citizens

Overhead Power Lines — Overhead lines (both electrical or communication) must be installed underground; and you can use LWCF funds to remove, relocate, or bury overhead power lines for beautification of outdoor recreation area

Procurement, Contracts and Bidding — Grantees receiving federal LWCF assistance must comply with all applicable local, state and federal requirements regarding contracts and bidding.

Quarterly Reports — All grantees are required to submit quarterly performance status reports during the life of the grant.

Expenditures - The LWCF program is a 50-50 matching reimbursement program. The applicant must incur 100 percent of the total project cost; submit evidence of eligible expenditures throughout project implementation and payment thereof; and request reimbursement from MD DNR after the project has been completed and NPS has officially closed the grant. All grantees are required to submit quarterly financial invoices throughout the life of the grant. Only expenditures incurred within the approved LWCF project period are eligible for reimbursement. Expenses incurred prior to authorization of the LWCF grant agreement or after the expiration date are ineligible for reimbursement.

Acknowledgment Sign — LWCF requires that all recreation areas assisted by the program post an acknowledgement. See sign requirements at <https://www.nps.gov/subjects/lwcf/lwcf-manual.htm>.

Restrictive Deed Wording — Section 6(f)(3) of the Land and Water Conservation Act states that: “No property acquired or developed with assistance under this section shall without approval of the Secretary [of the Interior] be converted to other than public outdoor recreation uses.” The LWCF program realizes that in certain instances there is no alternative to converting a portion of a LWCF property. In those extreme cases where there is no alternative, the grantee must begin a conversion of use process with MD DNR. In short, the conversion of use process requires that a suitable piece of replacement property be found before a conversion occurs at a LWCF site. “Suitable” means equivalent in fair market value and can serve as a viable public outdoor recreation area without reliance upon adjoining or additional areas.

Retention of Records — All documents related to the LWCF project, should be retained in perpetuity. These papers include project agreements, correspondence, deeds, as-built plans, inquiries regarding proposed changes

at the park, the legal Section 6(f) metes and bounds map, and grant application materials. Also all financial records, and documents used for verifying your reimbursement including bid information must be retained for a period of three years with the following qualifications:

If any litigation, claim, or audit is started prior to the expiration of the three years, the records shall be retained until all such actions have been resolved.

Records for non-expendable property acquired with fund assistance shall be retained three years after its final disposition.

Operation and Use — All LWCF assisted areas must be open to the public (everyone) during reasonable hours of operation, preferably from sunrise to sunset.

Maintenance — LWCF assisted properties must receive regular maintenance to ensure continuing public use in a safe and sanitary manner.

Fees — Reasonable user fees may be charged to offset operation and maintenance costs. A higher fee to non-residents may be charged as long as the higher fee is realistic, comparable to what is charged at other local parks, does not preclude use by non-residents and is no more than twice the residential fees.

Inspections — Inspections are regularly performed on LWCF assisted areas to monitor the project grantee compliance with program requirements. Recreation areas found in non-compliance will be notified in writing of the problems and a time frame for remediation. In cases where inspections discover conversions of use, the MD DNR, in consultation with the NPS, will provide direction to the grantee on the Conversion of Use process and a time frame for initiating it.

OTHER INFORMATION

Current Maryland Land Preservation and Recreation Plan:

<https://dnr.maryland.gov/land/Pages/Stewardship/LPRP-2019-2023.aspx>

National Parks Service, Land and Water Conservation Fund 2021 Manual:

<https://www.nps.gov/subjects/lwcf/upload/LWCF-FA-Manual-Vol-71-3-11-2021-final.pdf>

State Goals for Recreation, Parks, and Open Space from Maryland's 2019 – 2023 Land Preservation and Recreation Plan

Goal One: Coordination and Collaboration

Strengthen coordination and collaboration between federal, state, and local government agencies and other key stakeholders in planning for the provision of outdoor recreation opportunities and land conservation initiatives.

Goal 2: Promote the Benefits of Outdoor Recreation and Conservation of Natural Lands

Promote the economic, cultural, health, and environmental benefits of outdoor recreation and conservation of natural lands. Seek to increase the public's understanding of these benefits to enhance interest and participation in recreating outdoors in Maryland.

Goal 3: Increase Access to Open Spaces and Waterfronts

Increase and improve opportunities for all segments of the population to access land and water-based outdoor recreation opportunities.

Goal 4: Improve What's Already Available

Improve the overall quality of outdoor recreation infrastructure at public parks and outdoor areas across the state.

Goal 5: Develop an Informed Stewardship Culture

Promote environmental education and use of parks and outdoor areas as teaching tools to foster a positive stewardship ethos among children, youth, and their families.

Program Open Space Compliance with Federal, State, and Local Laws

Local governing bodies applying for LWCF grant assistance must conform to all environmental, cultural and planning laws applicable to the implementation of Program Open Space assisted projects. Among these, the following laws should be specifically addressed in the grant applications:

Disabled Accessibility. Article 78A, §51 of the Annotated Code of Maryland, facilities for disabled persons, requires structures or improved areas owned or constructed by the State of Maryland or its political subdivisions as public parks and recreation centers to provide facilities for disabled persons. This law specifically concerns toilet facilities, ramps, building entrances, drinking fountains, parking and walks. Such facilities should be suitably marked by a symbol denoting “accessible to the physically disabled.”

Nondiscrimination Policy. Property acquired or developed with assistance from the Program shall be open to entry and use by all persons regardless of race, color, religion, sex, age, or national origin, who are otherwise eligible according to reasonable published rules applicable to the property involved.

*It is the mission of the Maryland Commission on Civil Rights to ensure opportunity for all through the enforcement of Maryland's laws against discrimination in employment, housing, public accommodations, and state contracts; to provide educational outreach services related to provisions of this law; and to promote and improve civil rights in Maryland. **State vision is one free from any trace of unlawful discrimination.***

The Forest Conservation Act. Local Program Open Space grant assistance must be consistent with the Forest Conservation Act of 1991 (Natural Resources Article, Sections 5-1601 through 5-1613, Annotated Code of Maryland). This law was enacted to protect the forests of Maryland by making forest conditions and character an integral part of the site planning process. The law is administered by MD DNR but implemented primarily by local governments. Local Program Open Space projects should be reviewed for conformance with the appropriate Forest Conservation Law Programs prior to submission for state review. All Program Open Space projects are subject to review of applicability under the Forest Conservation Act.

Historical and Cultural Impacts. Prior to applying for Program Open Space assistance for an acquisition, development or capital rehabilitation project, the applicant should consult with the Maryland Historical Trust, Project Review and Compliance Program Division of Historical and Cultural Programs, Maryland Department of Planning (MDP), to determine if the Program Open Space capital project or projects will adversely affect any property listed in or eligible for the Maryland Register of Historic Properties. (Article 83B, Title 5, Subtitle 6, Housing and Community Development, Annotated Code of Maryland). Any applications for use of federal or state funds for development are subject to review and approval of the Trust through the MDP State

Clearinghouse process. Applicants are encouraged to seek early comments from the Trust on all projects listed in their Annual Program in order to avoid impacts on historic and cultural resources during project approval or implementation.