

**62D-5.053 Purpose.**

The Florida Department of Environmental Protection (DEP), pursuant to Section 375.075, F.S., is authorized to establish the Florida Recreation Development Assistance Program (FRDAP) to provide grants to qualified local governmental entities to acquire or develop land for public outdoor recreation purposes. The purpose of this part is to set forth procedures to govern the program.

Specific Authority 375.075 FS. Law Implemented 375.075 FS. History—New 12-10-90, Formerly 16D-5.053.

**62D-5.054 Definitions.**

The terms used in this part are defined as follows:

(1) “ACQUISITION” means the act of obtaining real property or interests and rights thereon by various legal means to serve public outdoor recreation purposes.

(2) “APPLICANT” means a local governmental entity which submits an application for FRDAP funds to the Department during an announced application submission period.

(3) “APPLICATION” means a formal request for FRDAP funds by an applicant consisting of a complete project application form with all required documentation.

(4) “APPLICATION SUBMISSION PERIOD” means the formally announced period of time provided by the Department for the submission of FRDAP applications by local governmental entities.

(5) “CASH” means money paid by a grantee to purchase goods and services from private and independent sources for accomplishment of a FRDAP project. In-kind service costs are not cash.

(6) “CAPITAL IMPROVEMENT PLAN” means that portion of an applicant’s adopted local comprehensive plan which indicates a schedule of capital improvement projects, including estimated costs and target dates for completion.

(7) “DEPARTMENT” means the Florida Department of Environmental Protection.

(8) “DEVELOPMENT” means the act of physically improving an area, facility, resource or site to increase its ability or capacity to serve public outdoor recreation purposes.

(9) “DIVISION OF RECREATION AND PARKS” means the Division of Recreation and Parks of the Florida Department of Environmental Protection.

(10) “DIVISION OF STATE LANDS” means the Division of State Lands of the Florida Department of Environmental Protection.

(11) “EVALUATION CRITERIA” means the standards used to evaluate FRDAP applications.

(12) “ESTIMATED PROGRAM FUNDS” means the amount of FRDAP funds estimated to be available for the subsequent fiscal year by the Department.

(13) “FACILITY” means a component of a capital improvement project.

(14) “FISCAL YEAR” means the State fiscal year, July 1 – June 30.

(15) “FRDAP” means the Florida Recreation Development Assistance Program.

(16) “FUNDING CYCLE” means the interval of time between the start of a FRDAP application submission period and appropriation of project funds by the Florida Legislature.

(17) “GRANT” means program funds authorized by the Secretary for release to a

grantee for implementation of an approved project.

(18) "GRANTEE" means a local governmental entity receiving FRDAP funds pursuant to an approved FRDAP application.

(19) "GREENWAY PLAN" means an adopted local or regional plan describing the acquisition and development of a system proposed to link natural areas, open spaces and trails in the area served.

(20) "GREENWAYS AND TRAILS PLAN" means the document entitled "Connecting Florida's Communities with Greenways and Trails", dated September, 1998, and available from the Office of Greenways and Trails, 3900 Commonwealth Boulevard, MS 795, Tallahassee, Florida 32399-3000, (850) 488-3701.

(21) "IN-KIND SERVICE COSTS" means in-house expenses incurred by a grantee for labor and materials and grantee-owned and maintained equipment for accomplishment of an approved FRDAP project. Volunteer labor, inmate labor, or donated materials are ineligible program expenses.

(22) "LAND VALUE" means the assessed fair market value of land used by a grantee as match to FRDAP funds.

(23) "LOCAL GOVERNMENT COMPREHENSIVE PLAN" means a plan adopted pursuant to Chapter 163, F.S.

(24) "LOCAL GOVERNMENTAL ENTITY" means a county government, municipality (incorporated city, town or village), or an independent special district of the State of Florida with legal responsibility for the provision of outdoor recreational sites and facilities for use and benefit of the general public.

(25) "LWCF" means the Land and Water Conservation Fund, administered pursuant to Chapter 62D-5, Part VII, F.A.C.

(26) "MATCH" means the provision of cash, in-kind service costs or land value in the ratio required by this rule to be added to FRDAP funds by the grantee for the project cost.

(27) "MIXED-USE/MULTI-USE TRAIL" means a trail or corridor designated for more than one use, including motorized or non-motorized uses.

(28) "MOTORIZED TRAIL" means a trail specifically for off-road recreational motorized vehicular activities, including all-terrain vehicle riding, motorcycling, use of off-road light trucks, e-bikes, or other off-road motorized vehicles.

(29) "NEEDS" means a deficiency in or a necessity to carry out a predetermined level of recreational service.

(30) "NEW CONSTRUCTION" means building of new facilities not previously in existence.

(31) "NONMOTORIZED TRAIL" means a trail designated for foot, bicycle, canoe/kayak, equestrian traffic, or other nonmotorized uses.

(32) "OPEN SPACE" means an outdoor area whose purpose is to provide a source of recreation which contributes to environmental harmony through the enrichment of flora, fauna, wildlife habitat, and geological features.

(33) "OUTDOOR RECREATION" means the pursuit of leisure activities in an outdoor environment.

(34) "PREAGREEMENT EXPENSES" means expenses incurred by a grantee for accomplishment of an eligible FRDAP project prior to full execution of a project agreement.

(35) "PRIMARY FACILITY" means any facility which could stand alone and provide outdoor recreation without a support facility. Examples of primary facilities are: beach access, trailhead and trailside facilities, fishing piers, boat ramps and docks, canoe trails, boardwalks, observation towers, ball fields, tennis and basketball courts, playgrounds, hiking, nature and bike trails, or skate facilities.

(36) "PRIORITY LIST" means a list that contains all eligible applications which will meet or exceed the minimum point score as identified under paragraph 62D-5.056(3)(b), F.A.C.

(37) "PROGRAM" means the Florida Recreation Development Assistance Program.

(38) "PROGRAM AMOUNT" means the amount of FRDAP funds appropriated by the Florida Legislature for the subsequent fiscal year.

(39) "PROJECT" means the planned undertaking in which all actions or activities have a clear-cut identity and a well-defined, common outdoor recreation objective that has been planned to the point of definite implementation for which FRDAP funds will be used.

(40) "PROJECT AGREEMENT" means an executed contract between the Department and a grantee setting forth mutual obligations regarding an approved FRDAP project.

(41) "PROJECT COMPLETION" means the project is open and available for use by the public. Project must be designated complete prior to release of final reimbursement.

(42) "PROJECT COMPLETION DATE" means the date specified in a project agreement by which a grantee shall complete an approved FRDAP project and incur all grant and if applicable, match related expenses.

(43) "PROJECT COST" means the total of a FRDAP grant award and required match.

(44) "PROJECT ELEMENT" means an identified facility within a project.

(45) "PROJECT PERIOD" means the period of time set forth in a project agreement during which eligible project costs may be incurred and charged to the grant.

(46) "PROJECT SITE" means the specific area, and boundaries thereof, as shown by a survey and a legal description, for which FRDAP funds are used.

(47) "REAL PROPERTY" means land and improvements attached or affixed to the land.

(48) "RECREATIONAL TRAIL" means a linear corridor and any adjacent support parcels on land or water providing public access for recreation or authorized alternative modes of transportation such as bicycling, hiking, equestrian, and aquatic or water activities.

(49) "RENOVATION" means repair, replacement, or restoration of like facilities to an improved state suitable for public use, which facilities have deteriorated due to natural causes to the point where their usefulness is impaired.

(50) "RTP" means the Recreation Trails Program of the Office of Greenways and Trails, administered pursuant to Chapter 62S-2, F.A.C.

(51) "SECRETARY" means the Secretary of the Florida Department of Environmental Protection.

(52) "STAFF" means Department staff.

(53) "SCORP" means the State Comprehensive Outdoor Recreation Plan for the State of Florida prepared under Section 375.021, F.S.

(54) "SUPPORT FACILITY" means a facility which could not stand alone, or which would have little or no public outdoor recreational value without the primary facility. Examples of support facilities are: parking lots, rest rooms, bathhouses, combined restroom-concession stand buildings, access roads, walkways, landscaping, security lighting and fencing, and interpretive signs.

(55) "TRAIL CONSTRUCTION" means the act of developing new or renovating recreational trails, which may include trailhead and trailside facilities.

(56) "TRAIL SYSTEM" means a set of interconnected components that function as a whole and thereby achieve a behavior or performance that is different than the sum of each of the components taken separately.

(57) "TRAILHEAD" means a point of access to a trail. It shall be accessible from a public road and have restrooms and parking available. Specific Authority 375.075 FS. Law Implemented 375.075 FS. History—New 12-10-90, Formerly 16D-5.054, Amended 8-13-98, 8-23-00, 7-5-01, 8-15-04.

### **62D-5.055 General Requirements.**

The following constitutes the general procedures for the program:

(1) DISTRIBUTION OF PROGRAM FUNDS. FRDAP funds are distributed as reimbursement grants by the Department on a project-by-project basis to applicants eligible under this rule. The Department's performance and obligation to award program grants are contingent upon an annual appropriation by the Florida Legislature for the subsequent fiscal year.

(2) APPLICATION SUBMISSION PERIOD. The Department shall accept program applications only during the application submission period. Applications must be postmarked on or before the last day of the application submission period. The Department shall publicize the dates of the application submission period and other pertinent application information specified in this rule in the Florida Administrative Weekly.

(3) MAXIMUM GRANT REQUEST. The Department shall announce the maximum funds that an applicant may request in a FRDAP application in the publication of the application submission period.

(4) MATCH REQUIREMENTS. Match requirements for FRDAP grants are set forth below:

(a) Match Ratios. The following match ratios apply:

Total Project Cost	State Share	Grantee Share
\$50,000 or less	100%	0
\$50,001 – 150,000	75%	25%
Over \$150,000	50%	50%

(b) Eligible Match Types. A grantee may utilize the following types of match sources for the grantee share:

1. Cash.

2. In-kind service costs.

3. Land Value. The value of a project site, which has no recreational facilities already on it, owned by the applicant. The applicant must submit an appraisal prepared pursuant to subparagraph 62D-5.058(6)(f)1., F.A.C., or documentation from the County

Property Appraiser showing the current assessed value of the land.

(c) Ineligible Match Sources. Land value of property acquired through FRDAP or other state and federal grant land acquisition programs, such as: Land and Water Conservation Fund, legislative special interest projects, Florida Communities Trust, Conservation and Recreation Lands Program (CARL), Save Our Rivers, Preservation 2000, Florida Forever, Recreation Trails Program (RTP), and Land Acquisition Trust Fund (LATF).

(5) GRANT AWARD. The Secretary shall approve applications to the extent of estimated available program funds based on a review of staff's recommended application priority lists of eligible applications established pursuant to subsections 62D-5.055(6) and (7) and Rule 62D-5.057, F.A.C. The Secretary shall approve the final application priority list, and the Department shall submit the list to the Executive Office of the Governor and to the House and Senate Appropriations Committees for funding consideration for the subsequent fiscal year.

(6) PROGRAM AMOUNT ALLOCATION. For each funding cycle, the Department shall divide the estimated available program amount into two funds: Small and Large Funds. The percentage of the program amount that is allocated to each fund is determined by the percentage of funds requested by applicants in that fund.

(a) Small Projects Fund. The dollar amount of eligible applications proposing projects that do not exceed \$50,000 in project cost divided by the total dollar amount of requested funds in all eligible program applications.

(b) Large Projects Funds. The dollar amount of eligible applications proposing projects that exceed \$50,000 in project cost divided by the total dollar amount of requested funds in all eligible program applications.

(7) RECOMMENDED APPLICATION PRIORITY LIST. The program amount assigned to each fund, established pursuant to subsection 62D-5.055(6), F.A.C., shall be divided into three categories: acquisition, development, and trail construction. The fund amount assigned to each category is based on the percentage of funds in each category in relationship to the total amount of requested funds in all eligible project applications for each fund. Likewise, eligible project applications shall be divided into land acquisition, facility development, and trail construction categories in each fund and evaluated according to Rule 62D-5.057, F.A.C. A total point score shall be assigned to each application upon evaluation of each under Rules 62D-5.056 and 62D-5.057, F.A.C. Department staff shall prepare one priority list for each fund. Applications shall be ranked on the priority list according to assigned point scores. The application with the highest score will receive the highest priority. The remaining applications will be arranged in descending order according to their assigned point scores. Applications scoring below the minimum, established pursuant to paragraph 62D-5.056(3)(c), F.A.C., shall not be placed on the priority list. The priority list shall include recommendations for distribution of available program funds. In the event there are insufficient applications to account for all program funds assigned to a category or fund, the remaining funds shall then be allocated to the other category or fund.

(8) TIE-BREAKER SYSTEM. If two or more applications receive the same score as a result of the above evaluation, the following tie-breaker system will be used to decide the priority ranking among them. Tied applications will be evaluated according to each step of the tie-breaker system in order and will be assigned their priority accordingly. If

the tie is not broken by using step one, step two will be used.

(a) Step I – Per Capita Funding History. An order of priority among those applications with equal scores shall be established based on the per capita amount of funds previously received by the applicant through FRDAP during the previous five fiscal years. The application from the applicant which received the lowest per capita amount of program funds receives the highest priority. Other applications will be arranged in descending order related inversely to the per capita amount of program funds each has received. The resident population within the applicant’s jurisdictional boundaries shall be utilized to compute the per capita amount of funds each applicant has received.

(b) Step II – Per Capita Operating Budget. The applicant with the lowest per capita expenditure of general operating funds receives the highest priority. The resident population within the applicant’s jurisdictional boundaries, as determined in Step I, will be divided into the applicant’s current fiscal year total general operating budget to obtain the per capita operating fund amount.

(9) RETROACTIVE PROJECTS. Retroactive projects are eligible if they otherwise meet rule criteria, funds are available, and project costs have occurred within one (1) year prior to the approval of funding by the Governor.

(10) UNSETTLED CLAIMS. The Department shall deny or suspend program eligibility to any applicant or grantee against which the Department has an unsettled financial claim.

Specific Authority 375.075 FS. Law Implemented 375.075 FS. History–New 12-10-90, Formerly 16D-5.055, Amended 8-13-98, 7-5-01.

### **62D-5.056 Application Requirements and Processing.**

The Department shall approve applications for program grants in order of priority until all program funds are depleted under the following standards and criteria:

(1) ELIGIBLE APPLICANTS. All local governmental entities with the legal responsibility for the provision of outdoor recreational sites and facilities for the use and benefit of the public may submit FRDAP applications during the application submission period.

(2) PROJECT ELIGIBILITY.

(a) Outdoor Recreation: FRDAP grants shall only be awarded to grantees for projects that are for the sole purpose of providing outdoor recreational opportunities to the public.

(b) Eligible Site: The site of a FRDAP development project shall be owned by the applicant, or shall be under lease to the applicant for a period of time sufficient to satisfy the dedication period required by this rule, by the submission period deadline. The Department shall make exceptions when the applicant demonstrates that: 1) it is in the public interest; 2) it complies with all other parts of the rule; and 3) it serves the legislative intent of Section 375.075, F.S. Other forms of real property interest will be considered if the applicant provides clear and explicit documentation showing that it has the sole ability to control, manage, and dedicate the park for the required period of time; and that such interest cannot be unilaterally or arbitrarily canceled by the grantor of the interest. Site control verification must be received by the close of the submission cycle, as required by form FPS-A033, described in subsection (6) of this rule. Eligible sites

shall not include school board property. Eligible sites shall be dedicated or managed for public recreational use pursuant to Rule 62D-5.059, F.A.C.

(c) Number of Applications: An applicant may submit no more than two applications during each application submission period, with the exception of a consolidated city-county government which may submit four applications.

(d) Active Projects: A grantee with two incomplete FRDAP projects by the closing date of an application submission period shall only be eligible to submit one additional application.

(e) Duplicate Projects: A grantee shall not apply for FRDAP funds to complete an approved or incomplete FRDAP, LWCF, or RTP project. An applicant shall not submit the same application, in whole or in part, for more than one of the following: Florida Recreation Development Assistance Program, Land and Water Conservation Fund, or Recreational Trails Program, in concurrent or overlapping funding cycles.

(3) ELIGIBILITY DETERMINATION. Following closure of an application submission period, Department staff will review and determine the eligibility of each applicant based on the following:

(a) Applications received by the application submission deadline will be reviewed and evaluated by Department staff based on the materials submitted. Applicants will be notified of the timely receipt and status of their application(s).

(b) No additional information shall be accepted after the application submission deadline, unless specifically requested by Department staff for clarification of information provided in the application received by the published application submission deadline.

(c) Ineligibility: An application, in whole or in part, may be declared ineligible by the Department pursuant to paragraphs 62D-5.056(2)(a)-(e), F.A.C. The Department may determine that a project site or facility is not viable or practical. A project site would not be considered practical if it has documented and unresolved environmental violations on the site. A project site or facility would not be considered viable if it does not receive a minimum number of 53 points as awarded under Rule 62D-5.057, F.A.C.

(4) APPLICATION EVALUATION. Each eligible application shall be evaluated on the basis of the information provided in the application and in accordance with this part. Each application shall be assigned a total point score pursuant to subsection 62D-5.055(7) and Rule 62D-5.057, F.A.C.

(5) UNFUNDED AND INELIGIBLE APPLICATIONS. Any unfunded or ineligible application may be returned to the applicant upon request. If no request is made within 30 days after notification of grant awards, unfunded applications shall be discarded by staff.

(6) APPLICATION FORM. The Florida Recreation Development Assistance Program Application Form, FPS-A033, effective date 08/13/98, is hereby incorporated by reference and is available from the Department's Division of Recreation and Parks, 3900 Commonwealth Boulevard, Mail Station 585 Tallahassee, Florida 32399-3000, (850) 245-2501.

Specific Authority 375.075 FS. Law Implemented 375.075 FS. History—New 12-10-90, Formerly 16D-5.056, Amended 8-13-98, 8-23-00, 7-5-01, 8-15-04.

**62D-5.057 Evaluation Criteria.**

Pursuant to subsection 62D-5.055(7), F.A.C., a total point score shall be assigned to each eligible application after an evaluation according to the application criteria which follows:

**(1) GENERAL CRITERIA.**

- (a) The project implements the applicant’s adopted local comprehensive plan and: is included in the Capital Improvement Plan (CIP) or schedule during the current or next three (3) fiscal years: 20 points  
or  
is included as part of the plan through an adopted resolution committing the applicant to amend their CIP and complete the project should it receive program funds: 10 points
- (b) The project would address one or more issues or goals as identified in the state comprehensive outdoor recreation plan: 4 points
- (c) The project provides for a priority resource or facility need in the applicant’s planning region identified in the state comprehensive outdoor recreation plan: 7 points
- (d) The applicant obtained public participation through the following methods: 21 maximum points
  - Presentation at an advertised public meeting held solely for the discussion of the proposed project. 10 points
  - Presentation at a regularly scheduled advisory board meeting responsible for park, recreation and leisure service activities. 7 points
  - Presentation to community organizations or neighborhood associations or opinion surveys. 4 points
- (e) The applicant has the capability to develop, operate and maintain the project:
  - Has a full-time recreation or park department staffed to provide facility development, programming and maintenance capabilities. 6 points
  - or  
Has demonstrated the existence of a full-time ability to provide facility development, programming and maintenance capabilities. 4 points
  - or  
Has other means of providing facility development, programming and maintenance capabilities. 2 points
- (f) The project is supported through a written cooperative agreement between the applicant and a private or public entity in which said entity agrees to furnish 10% or more of the cash, land, or labor services for the project. 3 points
- (g) The project creates or enhances the development, extension or connection of local, regional, state or national parks, greenways, or trails. The project would provide for increased trail access by (a) connecting an existing, publicly owned and designated recreational trail with a project trail outside the project boundary; or (b) connecting two publicly designated trails outside of any park. 5 points

**(2) DEVELOPMENT CRITERIA.**

- (a) The project provides for new development of entirely undeveloped park property: 5 points
- (b) The project provides facilities identified in the priority ranked index clusters of outdoor facilities needs for renovation and/ or new construction identified within the

applicant's population density set forth in the Department's study entitled "Infrastructure Assessment of Local Government Recreation and Park Department Facility Needs in the State of Florida", effective December 1995, and incorporated herein by reference:

- 1. First priority ranked cluster: 6 points for each facility
- 2. Second priority ranked cluster: 5 points for each facility
- 3. Third priority ranked cluster: 4 points for each facility
- 4. Fourth priority ranked cluster: 3 points for each facility
- 5. Fifth priority ranked cluster: 2 points for each facility
- 6. Sixth priority ranked cluster: 1 point for each facility

(A project facility not listed in the priority ranked indexes will receive a score of a (30) maximum similar facility included in the indexes, as determined by Department staff). points

(c) The project, in whole or in part, addresses the priority funding needs for new construction, renovation, or a combination of the two for the applicant's population density identified in the Department's study entitled "Infrastructure Assessment of Local Government Recreation and Park Department Facility Needs in the State of Florida", identified in paragraph (2)(b) above:

- Higher priority or combination of new construction and renovation. 13 points
- Lower priority. 8 points

**(3) ACQUISITION CRITERIA.**

(a) The project provides for development of facilities identified in the top three priority ranked index clusters of outdoor facilities needs for new construction identified within the applicant's population density set forth in the Department's study entitled "Infrastructure Assessment of Local Government Recreation and Park Department Facility Needs in the State of Florida", effective December 1995, and incorporated herein by reference: 15 points

(b) The project provides needed recreational acreage pursuant to the applicant's adopted local comprehensive plan: 15 points

(c) The applicant has identified development of the property in their capital improvement plan (CIP) or schedule during the current or next 3 fiscal years: 6 points

or

applicant has included development of the property as part of the plan through an adopted resolution committing the applicant to amend their CIP and develop the property should it receive program funds: 3 points

**(4) TRAIL CONSTRUCTION CRITERIA.**

(a) The project provides for new trail construction on an entirely undeveloped park property: 5 points

(b) The project addresses one or more of the recommendations identified in the Greenways and Trails Plan: 6 points

(c) The project is located on or connects with a Florida Designated Greenway or Trail: 3 points

(d) The project implements an adopted local or regional Greenways or Trails Plan: 4 points

(e) The specific trail design demonstrates that the project will support mixed use/multi-use trail opportunities: 8 points

**or**

Single use recreational trail opportunities: 6 points

(f) The project addresses the priority funding needs for new construction, renovation, or a combination of the two for the applicant's population density identified in the Department's study entitled "Infrastructure Assessment of Local Government Recreation and Park Department Facility Needs in the State of Florida", effective December 1995, available from the Department's

Division of Recreation and Parks, 3900 Commonwealth Boulevard, Mail Station 585, Tallahassee, Florida 32399-3000, (850) 245-2501, and incorporated herein by reference for one of the following:

Higher priority or combination of new construction and renovation: 13 points  
Lower priority: 8 points

Specific Authority 375.075 FS. Law Implemented 375.075(2) FS. History—New 12-10-90, Formerly 16D-5.057, Amended 8-13-98, 8-23-00, 7-5-01, 8-15-04.

### **62D-5.058 Grant Administration.**

The following constitutes procedures for administration of program grants:

(1) **PROJECT AGREEMENT.** After the Legislature appropriates FRDAP funds, the Department and grantee shall enter into a project agreement which sets forth the responsibilities and duties of each regarding administration of the approved project. The project agreement shall contain terms and conditions particular to each project. Project agreements are not transferable.

(2) **PAYMENT BASIS.** Grantees shall be paid program funds by the Department subject to the following conditions:

(a) **Project Costs.** Payment of project costs shall be reimbursed as provided for in this rule and in the project agreement. Costs shall be incurred between the effective date of, and the project completion date identified in, the project agreement except for pre-agreement costs. Costs for appraisals, appraisal review, surveys (boundary and topographic), title searches and project signs are eligible project expenses. If the total cost of the project exceeds the grant amount and the required match, the grantee must pay the excess cost.

(b) **Cost Limits.** Project planning expenses, such as application preparation, architectural and engineering fees, permitting fees, project inspection, and other similar fees, are eligible project costs provided that such costs do not exceed fifteen percent of the project cost.

(c) **Retention.** The Department shall retain ten percent of the grant until the grantee completes the project and the Department approves the completion documentation set forth in paragraphs 62D-5.058(6)(g) and (7)(d), F.A.C.

(3) **ACCOUNTABILITY.** The following procedures shall govern the accountability of program funds:

(a) **Accounting System.** Each grantee shall maintain an accounting system which meets generally accepted accounting principles and shall maintain financial records to properly account for all program and matching funds.

(b) **Grant and Contract Accountability Procedure.** The grantee shall ensure the requirements of the Division's Grant and Contract Accountability Procedure, effective, January 23, 1997, incorporated by reference and available from the Department's Division of Recreation and Parks, 3900 Commonwealth Boulevard, Mail Station 585, Tallahassee, Florida 32399-3000, (850) 488-7896.

(4) **PROJECT COMPLETION CERTIFICATION.** The grantee shall submit to the Department a Project Completion Certificate, FPS-A037, effective date 08/13/98, hereby incorporated by reference and available from the Department's Division of

Recreation and Parks, 3900 Commonwealth Boulevard, Mail Station 585, Tallahassee, Florida 32399-3000, (850) 488-7896.

(5) REVERTED PROJECT FUNDS. FRDAP funds remaining after termination of a grant award or grantee completion of project shall revert to the Department under the provisions of Section 216.301, F.S. If any funds awarded during a funding cycle are not accepted by the grantee or become available before termination of the fiscal year for which they were appropriated, the Department shall offer the funds to unfunded applicants in order of priority.

(6) ACQUISITION PROJECTS. The following constitutes the specific procedures for administration of acquisition projects:

(a) Grant Period. The grantee will have up to one year from the start of the state's fiscal year in which funds are appropriated to purchase the property. Department staff will extend this period for good cause such as financial hardship, public controversy, or factors beyond grantee's control, at the written request of the grantee. Extensions shall not exceed three years from the start of the state's fiscal year in which funds are appropriated.

(b) Ownership. Title to land acquired with program funds shall vest in the grantee.

(c) Procurement. The grantee shall purchase the property according to its adopted acquisition methods.

(d) Assumption of Title. The grantee shall not purchase the property until the project agreement is fully executed and Department staff approves the commencement documentation required by paragraph 62D-5.058(6)(f), F.A.C., unless otherwise specified in this part.

(e) Site Development. The grantee will have up to three (3) years from the completion date set forth in the project completion certificate to develop the property.

(f) Commencement Documentation. Prior to commencement of acquisition procedures, the grantee shall submit for approval the documentation described in the Florida Recreation Development Assistance Program Acquisition Project Commencement Documentation Form, FPS-A034, effective date 08/13/98, hereby incorporated by reference and available from the Department's Division of Recreation and Parks, 3900 Commonwealth Boulevard, Mail Station 585, Tallahassee, Florida 32399-3000, (850)245-2501.

1. Appraisal. Prior to the Department staff authorizing the grantee to commence acquisition procedures, the grantee shall submit to the Department an appraisal, prepared in accordance with the uniform standards of professional appraisal practices, which establishes the fair market value of the project site. The fair market value of the project site shall be based on its highest and best use. If the property is \$500,000 or less in appraised value, one appraisal is required. If the property exceeds \$500,000 in appraised value, two appraisals are required. The appraisal(s) must be dated no earlier than six months prior to the closing date of the application submission period and prepared by an appraiser on the list of approved appraisers maintained by the Department's Division of State Lands under the provisions of Sections 253.025(6)(b), 259.041(7)(c), F.S., and Rule 18-1.007, F.A.C. The list of approved appraisers may be obtained from the Division of State Lands, Bureau of Appraisal, 3900 Commonwealth Boulevard, Mail Station 110, Tallahassee, Florida 32399-3000, (850)245-2658. If two appraisals are required for the project, the lower of the approved appraised values is the

basis of the acquisition cost for program purposes.

2. Survey. For all acquisition projects, the grantee shall submit to the Department a survey of the project site. The survey must provide a legal description and sketch of the property's boundaries, display known easements and encroachments, if any, be legally sufficient to identify the site, be updated to within one year of the closing date of the application submission period, and must be signed and sealed by a professional surveyor and mapper licensed under provisions of Chapter 472, F.S. Along with the survey, the grantee shall submit a title opinion, prepared by a member of the Florida Bar or a licensed title insurer. The title opinion shall cover the prior thirty year period.

(g) Completion Documentation. Upon completion of an acquisition and prior to release of the final payment, the grantee shall submit all documentation described in the Florida Recreation Development Assistance Program Acquisition Project Completion Documentation Form, FPS-A036, effective date 08-13-98, hereby incorporated by reference and available from the Department's Division of Recreation and Parks, 3900 Commonwealth Boulevard, Mail Station 585, Tallahassee, Florida 32399-3000, (850)245-2501.

(7) DEVELOPMENT PROJECTS AND TRAIL CONSTRUCTION. The following constitutes the specific procedures for administration of development projects:

(a) Grant Period. The grantee will have up to three years from the start of the state's fiscal year in which funds are appropriated to complete the project. If the project is not completed within three years from the original contract date, the start of the state's fiscal year in which funds are appropriated, the contract shall be terminated and the project funds shall revert to the revenue fund from which they were appropriated.

(b) Procurement of Goods and Services. The grantee shall secure all goods and services for accomplishment of the project according to its adopted procurement procedures.

(c) Commencement Documentation. Prior to commencement of project construction, the grantee shall submit for approval the documentation described in the Florida Recreation Development Assistance Program Development Project Commencement/ Reimbursement Documentation Form, FPS-A034, effective 08/13/98, hereby incorporated by reference and available from the Department's Division of Recreation and Parks, 3900 Commonwealth Boulevard, Mail Station 585, Tallahassee, Florida 32399-3000, (850)245-2501.

1. Project Permitting Certification. The grantee shall submit to the Department a Project Permitting Certificate, FPS-A035, effective date 08/13/98, hereby incorporated by reference and available from the Department's Division of Recreation and Parks, 3900 Commonwealth Boulevard, Mail Station 585, Tallahassee, Florida 32399-3000, (850)245-2501.

2. Land Value Match. Prior to the Department staff authorizing the grantee to commence construction of a project utilizing land value as match, the grantee shall submit to the Department an appraisal, prepared in accordance with the uniform standards of professional appraisal practices, which establishes the fair market value of the project site. The fair market value of the project site shall be based on its highest and best use. The appraisal must be dated no earlier than one year prior to the closing date of the application submission period and prepared by an appraiser on the list of approved appraisers maintained by the Department's Division of State Lands, under

provisions of Sections 253.025(6)(b), 259.041(7)(c), F.S., and Rule 18-1.007, F.A.C. The list of approved appraisers may be obtained from the Division of State Lands, Bureau of Appraisal, 3900 Commonwealth Boulevard, Mail Station 110, Tallahassee, Florida 32399-3000, (850) 245-2658. In lieu of obtaining an appraisal to establish the site's fair market value, the grantee may use the assessed value of the project site supported by documentation of the current assessed value from the County Property Appraiser. Approved fair market or assessed land value not used by the grantee for a match on an approved project may be used as matching funds on a subsequent approved project within two years after the Secretary's approval of the initial project, and the grantee need not obtain a new appraisal or documentation of land value. Such use is limited to one additional project.

3. Survey. For all projects, the grantee shall submit to the Department a survey of the project site. The survey must provide a legal description and sketch of the site's boundaries, display known easements and encroachments, if any, be legally sufficient to identify the site, and must be signed and sealed by a professional surveyor and mapper licensed under provisions of Chapter 472, F.S. Along with the survey, the grantee shall submit a title opinion, prepared by a member of the Florida Bar or a licensed title insurer. The title opinion shall cover the prior thirty year period.

(d) Completion Documentation. Upon completion of the project and prior to release of the final payment, the grantee shall submit all documentation described in the Florida Recreation Development Assistance Program Project Development Completion Documentation Form, FPS-A036, effective 08/13/98, incorporated by reference and available from the Department's Division of Recreation and Parks, 3900 Commonwealth Boulevard, Mail Station 585, Tallahassee, Florida 32399-3000, (850) 245-2501.

(e) Inspections. The Department shall have the right to perform an on-site inspection of the project site to ensure compliance with the project agreement prior to release of the final grant payment.

Specific Authority 375.075 FS. Law Implemented 375.075 FS. History--New 12-10-90, Formerly 16D-5.058, Amended 8-13-98, 8-23-00, 7-5-01, 8-15-04.

### **62D-5.059 Compliance Responsibilities.**

The following constitutes the general requirements for program compliance:

(1) SITE DEDICATION. Land owned by the grantee, which is developed or acquired with FRDAP funds, shall be dedicated in perpetuity as an outdoor recreational site for the use and benefit of the general public. Land under control other than by ownership of the grantee such as by lease, shall be dedicated as an outdoor recreation area for the use and benefit of the general public for a minimum period of twenty-five (25) years from the completion date set forth in the project completion certificate. The dedications must be recorded in the public property records by the grantee.

(2) MANAGEMENT OF PROJECT SITES. Grantees shall ensure by site inspections that facilities on project sites developed with FRDAP funds are being operated and maintained for outdoor recreational purposes for a minimum period of twenty-five (25) years from the completion date set forth in the project completion certificate. All project sites shall be open at reasonable times and shall be managed in a safe and attractive manner.

(3) CONVERSION. Should a grantee, within the periods set forth in subsections

62D-5.059(1) and (2), F.A.C., convert all or part of the project site to other than public outdoor recreational uses, the grantee shall replace the area, facilities, resource or site at its own expense with project of comparable scope and quality.

(4) NON-COMPLIANCE. The Department shall terminate a project agreement and demand return of the program funds (including interest) for non-compliance by a grantee with the terms stated in the project agreement or this rule. If grantee fails to comply with the provisions of this part or the project agreement, the Department shall declare the grantee ineligible for further participation in FRDAP until such time as compliance has been obtained.

(5) PUBLIC ACCESSIBILITY. All facilities shall be accessible to the public on a non-exclusive basis, without regard to age, sex, race, religion, or ability level.

(6) ENTRANCE FEES. Reasonable differences in entrance fees for program projects may be maintained on the basis of residence. Such fees may only be charged if the grantee can clearly show that the difference in entrance fees reflects, and is substantially related to, all economic factors related to park management, and it is not simply related to the amount of tax dollars spent by the residents for the park; and that a definite burden on the grantee in park maintenance costs clearly justifies a higher fee for nonresidents.

(7) NATIVE PLANTINGS. In developing a project area with program funds, a grantee shall primarily use vegetation native to the area, except for lawn grasses.

(8) POST COMPLETION INSPECTIONS. Department staff shall have the right to perform an on-site inspection of program sites to ensure compliance with program requirements as stated in subsections (1), (2) and (3) of this section.

Specific Authority 375.075 FS. Law Implemented 375.075 FS. History—New 12-10-90, Formerly 16D-5.059, Amended 8-13-98, 8-15-04.

#### **62D-5.068 Purpose.**

The Federal Land and Water Conservation Fund (LWCF), established by the U.S. Congress upon enactment of the Land and Water Conservation Fund Act of 1965 (Public Law 88-578, 78 Statute 897, as amended), provides matching grants to the State of Florida, and through the State to governmental entities, for the acquisition and development of land for public outdoor recreation purposes. The National Park Service (NPS) and the Florida Department of Environmental Protection (Department) administer the program on behalf of the U.S. Department of the Interior and the State of Florida, respectively. After federal apportionment, NPS provides LWCF funds to the State of Florida and the Florida Legislature provides expenditure authority to the Department. The purpose of this Part is to set forth policies and procedures for the Department to implement the LWCF grant program. The Department is authorized to participate in the LWCF pursuant to subsection 375.021(4), F.S.

Specific Authority 258.007 FS. Law Implemented 258.004, 258.007, 375.021(4) FS. History—New 7-15-01.

#### **62D-5.069 Definitions.**

The basic terms utilized in this part are defined as follows.

(1) “Acquisition” means the act of obtaining real property or interests and rights therein by various legal means to serve public outdoor recreation purposes.

(2) "Applicant" means a local governmental entity which submits an application for Land and Water Conservation Fund (LWCF) funds to the Department during an announced application submission period.

(3) "Application" means a formal request for LWCF funds by an applicant consisting of a project proposal with required documentation.

(4) "Application Submission Period" means the period of time announced by the Department in the Florida Administrative Weekly for the submission of LWCF applications by local governmental entities for a single funding cycle.

(5) "Cash" means money paid by a grantee to purchase goods and services from private and independent sources for accomplishment of an approved LWCF project. In-kind service costs are not defined as cash.

(6) "Department" means the Florida Department of Environmental Protection.

(7) "Development" means the act of physically improving an area, facility, resource, or site to increase its ability or capacity to serve public outdoor recreation purposes.

(8) "Division" means the Division of Recreation and Parks of the Department.

(9) "Division of State Lands" means the Division of State Lands of the Department.

(10) "Evaluation Criteria" means the standards used by the Department to evaluate LWCF applications.

(11) "Facilities" means capital improvement projects which provide or assist in providing outdoor recreation opportunities.

(12) "Fiscal Year" means the State of Florida fiscal year, July 1 – June 30.

(13) "FRDAP" means the Florida Recreation Development Assistance Program administered pursuant to Chapter 62D-5, Part V, F.A.C.

(14) "Funding Cycle" means the interval of time between the opening of an LWCF application submission period and grant award by the National Park Service (NPS).

(15) "Grant" means program funds authorized by NPS for release to the State, and by the Secretary of the Department for release to a grantee, for implementation of an approved program project.

(16) "Grantee" means a local governmental entity receiving LWCF funds pursuant to an approved LWCF application.

(17) "In-Kind Service Costs" means in-house expenses incurred by a grantee for labor and materials and grantee-owned and maintained equipment for accomplishment of an approved LWCF project.

(18) "Land Value" means the current appraised value of donated land used by a grantee to match LWCF funds.

(19) "Linear Park" means an active or passive outdoor area of linear design that provides or connects recreation, park land, or open space areas.

(20) "Local Comprehensive Plan" means a plan adopted pursuant to Chapter 163, F.S.

(21) "LWCF" means the Land and Water Conservation Fund Program.

(22) "Manual" means the Land and Water Conservation Fund Program Grants Manual published by the National Park Service of the United States Department of the Interior, available from the Department, Bureau of Design and Recreation Services, 3900 Commonwealth Boulevard, Mail Station 585, Tallahassee, Florida 32399-3000, (850) 488-7896.

(23) "Match" means the provision of cash, in-kind services and value of donated real

property in the ratio required to be added to LWCF funds by the grantee for the project cost.

(24) "Needs" means a deficiency in or a necessity to carry out a predetermined level of service.

(25) "New Construction" means building new facilities.

(26) "NPS" means the National Park Service of the United States Department of the Interior.

(27) "Open Space" means an outdoor area whose purpose is to provide a source of recreation and contributes to environmental harmony through the enrichment of flora, fauna and geological features.

(28) "Outdoor Recreation" means the pursuit of leisure activities in an outdoor environment.

(29) "Part" means Part VII of Chapter 62D-5, F.A.C.

(30) "Plan" means the currently effective state comprehensive outdoor recreation plan ("SCORP") for the State of Florida, dated March 1994 and available from the Office of Park Planning, Division of Recreation and Parks, 3900 Commonwealth Boulevard, Mail Station 525, Tallahassee, Florida 32399-3000, (850) 245-3051.

(31) "Preagreement Expenses" means expenses incurred by the grantee, with Department approval, for accomplishment of an eligible LWCF project prior to execution of a project agreement.

(32) "Program" means the Land and Water Conservation Fund Program.

(33) "Program Amount" means the amount of LWCF funds available during any funding cycle.

(34) "Project" means a planned undertaking in which all actions or activities have a clear-cut identity and a well-defined common outdoor recreation objective and which has been planned to the point of definite implementation.

(35) "Project Agreement" means an executed contract between the Department and a grantee setting forth mutual obligations regarding an approved LWCF project.

(36) "Project Completion Date" means the date specified in a project agreement by which the grantee shall complete an approved LWCF project and incur all grant and match-related expenses. The project is not complete until it is open to the public for use.

(37) "Project Cost" means the total of the LWCF grant award and required match.

(38) "Project Element" means an identified segment of a project with related facilities or improvements.

(39) "Project Period" means the period of time set forth in a project agreement during which eligible project costs may be incurred and charged to the grant.

(40) "Project Site" means the specific area, defined by a survey or project boundary map and legal description, where LWCF funds are used for an approved project.

(41) "Real Property" means land and improvements attached to or affixed to the land.

(42) "Renovation/Repair" means the restoration of a facility or project area that has deteriorated due to natural causes to the point where its usefulness is impaired to an improved state suitable for public use. This does not include restoration of a facility which has deteriorated due to inadequate maintenance during its reasonable lifetime.

(43) "RTP" means Recreational Trails Program administered by the Office of Greenways and Trails of the Department pursuant to Chapter 62S-2, F.A.C.

(44) "Secretary" means the Secretary of Department

(45) "Staff" means Division staff of Department.

(46) "State" means the State of Florida.

(47) "Waiver of Retroactivity" means written Department authorization that an acquisition project may be commenced by an applicant prior to NPS approval of a program application. Such authorization does not constitute or imply Department or NPS approval of a future LWCF application.

Specific Authority 258.007 FS. Law Implemented 258.004, 258.007, 375.021(4) FS. History—New 7-15-01.

### **62D-5.070 General Requirements.**

The following constitute the general requirements for the program.

(1) **DISTRIBUTION OF PROGRAM FUNDS.** LWCF funds are distributed as grants by the Department on a matching, project-by-project basis, to approved applicants after a competitive evaluation of eligible program applications submitted within announced application submission periods. The Department's performance and obligation to award program grants are contingent upon an annual apportionment from NPS and expenditure authorization by the Florida Legislature.

(2) **MANUAL.** The Department, applicants, and grantees shall meet all program requirements set forth in the Land and Water Conservation Fund Grants Manual. The manual is hereby incorporated by reference and is available from the Department's Division of Recreation and Parks, 3900 Commonwealth Boulevard, Mail Station #585, Tallahassee, Florida 32399-3000.

(3) **PLAN.** All projects receiving grant assistance through LWCF shall implement the Plan.

(4) **ELIGIBLE APPLICANTS.** All local governmental entities with the legal responsibility for the provision of outdoor recreational sites and facilities for the use and benefit of the public may submit LWCF applications during the application submission period.

(5) **PROJECT ELIGIBILITY.** LWCF grants are awarded to grantees for projects that are for the sole purpose of providing outdoor recreation opportunities to the public. Applicants may request funds for the following types of projects:

(a) **Acquisition.** The acquisition of real property or interests and rights therein by various legal means.

(b) **Development.** Projects for the construction, expansion, renovation/repair or installation of the following:

1. **Primary Facilities.** LWCF funds are awarded for one or a combination of natural or man-made sites and facilities, such as: beach access improvements, fishing piers, boat ramps and docks, canoe trails, boardwalks and riverwalks, observation towers, baseball and softball fields, tennis and basketball courts, playgrounds, and hiking, interpretive, and bicycle trails. Enclosed buildings and structures are ineligible facilities. Primary facility cost must be equal to, or greater than, 50 percent of the total project cost.

2. **Support Facilities and Improvements.** LWCF funds can be awarded for support facilities and improvements, such as: parking lots, restrooms, bathhouses, combined restroom-concession stand buildings, access roads, landscaping, lighting, fencing, signs, and handicap ramps which would have little or no recreational value without the

primary facilities. Enclosed buildings and structures, except for restrooms, bathhouses, and combined restroom-concession stand buildings are ineligible facilities.

(6) MATCH REQUIREMENTS. Match requirements for LWCF grant projects are set forth below:

(a) Matching Basis. LWCF assistance is provided on a 50 percent (program/grantee) matching basis.

(b) Eligible Match Types. A grantee may utilize the following types of match sources:

1. Development Project:

a. Cash;

b. In-kind service costs; or

c. Donated real property pursuant to this Part and the Manual.

2. Acquisition Project:

a. Cash; or

b. Real property donated pursuant to this Part and the Manual.

(c) Ineligible Match Types. Ineligible match sources include real property acquired or funds obtained from any of the following sources:

1. FRDAP, RTP, and LWCF funds;

2. Donated value of real property acquired prior to Department approval or through LWCF; and

3. Other state or federal grant or land acquisition programs such as: legislative special interest projects, Save Our Coast Program, Preservation 2000, Florida Forever, Conservation and Recreation Lands Program, Save Our Rivers Program, and Land Acquisition Trust Fund. Funding sources identified in sections 640.1.7 and 670.1.5 of the Manual are eligible match types.

(7) GRANT AWARD. The Secretary shall approve applications to the extent of available program funds, based on a review of the recommended application priority lists established pursuant to subsections 62D-5.070(8) and (9), F.A.C., of this Part.

(8) PROGRAM AMOUNT ALLOCATION. The program amount shall be divided into two categories: acquisition and development. The acquisition category will be assigned the first 25 percent of the program amount. The remaining program amount will be assigned to the acquisition and development categories based on the percentage of funds requested in each category in relationship to the total amount of requested funds in all eligible program applications.

(9) RECOMMENDED APPLICATION PRIORITY LISTS. All eligible applications shall be divided into acquisition and development categories and evaluated according to Rule 62D-5.072, F.A.C., of this Part. A total point score shall be assigned to each application. Department staff shall prepare two priority lists according to the type of category: acquisition and development. Applications shall be ranked on the priority lists according to assigned point scores. The application with the highest score will receive the highest priority. The remaining applications will be arranged in descending order according to their assigned point scores. The priority lists shall rank all eligible applications and include recommendations for distribution of available program funds. In the event there are insufficient applications to account for all program funds assigned to one category, the remaining funds may be applied to the other category.

(10) SITE CONTROL. The site of an LWCF development project shall be owned by the applicant, or shall be under lease to the applicant from another public agency for a

period of time sufficient to satisfy the dedication period required by this rule. Other forms of real property interest will be considered if the applicant provides clear and explicit documentation showing that it has the sole ability to control, manage, and dedicate the park for the required period of time; and that such interest cannot be unilaterally or arbitrarily canceled by the grantor of the interest. Eligible sites shall not include school board property. Eligible sites shall be dedicated or managed for public outdoor recreational use pursuant to Rule 62D-5.074, F.A.C., of this Part.

(11) RETROACTIVE PROJECTS. Land acquired for public outdoor recreation purposes prior to the date of project approval by NPS shall be eligible for LWCF consideration if the applicant obtains a waiver of retroactivity from Department staff before entering into formal negotiations to acquire the property. Prior to undertaking such negotiations, an applicant shall contact Department staff at Bureau of Design and Recreation Services, Division of Recreation and Parks, 3900 Commonwealth Boulevard, Mail Station 585, Tallahassee, Florida 32399-3000, (850) 488-7896, for forms and instructions.

(12) HANDICAPPED ACCESSIBILITY. Grantee must comply with Sections 553.501-.513, F.S., and the Uniform Federal Accessibility Standards. These standards are incorporated by reference and may be obtained from the Department's Division of Recreation and Parks, 3900 Commonwealth Boulevard, Mail Station #585, Tallahassee, Florida 32399-3000, (850) 488-7896.

(13) PUBLIC ACCESSIBILITY. Program projects must be accessible to the public on a non-exclusive basis without regard to age, sex, race, religion, marital status, disability, or ethnic group.

(14) ENTRANCE FEES. Reasonable differences in admission fees on the basis of residence for program projects are permitted if they comply with section 675.9.2.B of the Manual.

(15) FEDERAL COMPLIANCE AND ASSURANCES. LWCF applicants and approved grantees shall comply with all federal laws, rules, and regulations pursuant to sections 650.1 and 660.3 of the Manual.

(16) NATIVE PLANTINGS. In developing a project site with program funds, a grantee shall use only vegetation native to the area except for lawn grasses.

(17) UNSETTLED CLAIMS. The Department shall deny or suspend program eligibility or withhold grant funds to any applicant or grantee against which the Department has an unsettled financial claim.

Specific Authority 258.007 FS. Law implemented 258.004, 258.007, 375.021(4) FS. History—New 7-15-01.

### **62D-5.071 Application Requirements And Processing.**

The following constitute the general requirements and procedures for application submittal and processing.

(1) APPLICATION SUBMISSION PERIOD. The Department shall accept program applications only during the application submission period. Applications shall be postmarked or received on or before the last day of the application submission period. The Department shall publicize the dates of the application submission period and other pertinent application information specified in this rule in the Florida Administrative Weekly. The Department shall announce additional application submission periods if

sufficient funds remain after the initial funding cycle.

(2) **MAXIMUM REQUEST.** The Department shall announce the maximum funds that an applicant may request in a LWCF application when publicizing the establishment of an application submission period. The amount will depend on the level of federal funding available.

(3) **NUMBER OF APPLICATIONS.** An applicant may submit only one application during each announced application submission period. The application may contain no more than one project site except for sandy beach access sites.

(4) **DUPLICATE PROJECTS.** A grantee shall not apply for LWCF funds to complete an approved project funded by LWCF, FRDAP, RTP, or other sources such as those identified in paragraph 62D-5.070(6)(c), F.A.C., of this Part. An applicant shall not submit the same application, in whole or in part, under LWCF, RTP, or FRDAP in concurrent or overlapping funding cycles.

(5) **ACTIVE PROJECTS.** A grantee with two incomplete LWCF projects by the closing date of the announced application submission period shall not be allowed to apply for additional program funds.

(6) **OUTDOOR RECREATION.** LWCF grants shall only be awarded to grantees for projects that are for the sole purpose of providing outdoor recreational opportunities to the public.

(7) **APPLICATION FORMS.** The Land and Water Conservation Fund Program Application Form, FPS-A047, 7-15-01, is hereby incorporated by reference and is available from the Department's Division of Recreation and Parks, 3900 Commonwealth Boulevard, Mail Station #585, Tallahassee, Florida 32399-3000, (850) 488-7896.

(8) **ELIGIBILITY DETERMINATION.** Following closure of an application submission period, staff will review and determine the eligibility based on the following:

(a) **Deficiency Documentation.** The applicant may retain eligibility by submitting documentation missing from the application, such as: proof that applicant had site control by the submission period deadline, evaluation criteria, cost estimate, site development plan, or survey. This documentation must be submitted within 15 working days from date of deficiency notification.

(b) **Ineligibility.** An application, in whole or in part, may be declared ineligible by the Department pursuant to subsections 62D-5.070(10) and 62D.5.071(3)-(6), F.A.C., of this Part. The Department may determine that a project site or facility is not viable or practical. A project site would not be considered practical if it has documented and unresolved environmental violations on the site.

(c) **Application Evaluation.** Each eligible application shall be evaluated on the basis of the information provided in the application and in accordance with Rule 62D-5.072, F.A.C., of this Part. Each shall be assigned a total point score pursuant to subsection 62D-5.070(9), F.A.C., of this part.

(9) **PROJECT DOCUMENTATION.** Following Secretary approval of the priority list of applications, the grantees shall submit to the Department the documentation described in the Land and Water Conservation Fund Program Approved Project Documentation Form, FPS-A048, 7-15-01, hereby incorporated by reference and available from the Department's Division of Recreation and Parks, 3900 Commonwealth Boulevard, Mail Station #585, Tallahassee, Florida 32399- 3000, (850) 488-7896. This documentation must be submitted in order for Department to apply for federal grant funds pursuant to

Rule 62D-5.068, F.A.C., of this Part.

(a) Appraisal. Prior to the Department staff authorizing the grantee to commence acquisition procedures for acquisition projects and projects where the seller is donating real property as all or part of the grantee's matching funds, the grantee shall submit to the Department an appraisal(s) obtained at its own expense, prepared in accordance with uniform appraisal standards for federal land acquisitions, which establishes the fair market value of the project site. The fair market value of the project site shall be based on its highest and best use. If the property is \$500,000 or less in appraised value, one appraisal is required. If the property exceeds \$500,000 in appraised value, a second appraisal is required. The appraisal(s) shall be dated no earlier than six months prior to the closing date of the LWCF application submission period and prepared by an appraiser on the list of approved appraisers maintained by the Department's Division of State Lands under provisions of paragraphs 253.025(6)(b), 259.041(7)(c), F.S., and Rule 18-1.007, F.A.C. The list of approved appraisers may be obtained from the Division of State Lands, Bureau of Appraisal, 3900 Commonwealth Boulevard, Mail Station #110, Tallahassee, Florida 32399-3000, (850) 245-2669. The Bureau of Appraisal shall approve the appraisals prior to submittal of the State application by the Department to NPS. The project cost is based on the purchase price or appraised value, whichever is lower. If two appraisals are required for the project, the lower of the purchase price or the approved appraised values is the basis of the project cost. Appraisal costs are ineligible project costs.

(b) Survey or Boundary Map. The grantee shall submit project site boundary information to the Department as follows:

1. Acquisition Project. The grantee shall submit a survey of the project site. The survey shall include a legal description of the property, be updated to within one year of the closure date of the application submission period and be prepared by a Florida registered land surveyor and mapper. Along with the survey, the grantee shall submit the results of a title search for the project area. The search shall cover the thirty-year period prior to the Secretary's approval of the project list. Survey and title search expenses are ineligible project costs.

2. Development Project. The grantee shall submit a boundary map of the project site pursuant to section 660.2.6 of the Manual.

(10) APPLICATION EVALUATION. All eligible project applications will be reviewed on the basis of information provided in the applications in accordance with Rule 62D-5.072, F.A.C., of this Part.

(11) UNFUNDED AND INELIGIBLE APPLICATIONS. Any unfunded or ineligible application may be returned to the applicant upon request. If no request is made within 30 days after notification of grant awards, unfunded applications shall be discarded by staff.

Specific Authority 258.007 FS. Law implemented 258.004, 258.007, 375.021(4), FS. History—New 7-15-01.

#### **62D-5.072 Evaluation Criteria.**

In addition to provisions set forth in this part, an eligible application's standing among competing eligible applications shall be determined by the extent to which it is determined to meet the criteria set forth in this section. Pursuant to subsection 62D-

5.070(9), F.A.C., a total point score shall be assigned to each application after an evaluation according to the general criteria and, depending upon the type of project, either the acquisition or development criteria.

(1) GENERAL CRITERIA. Points shall be awarded as follows.

- (a) The project implements the applicant’s adopted local comprehensive plan and: is included in their capital improvement plan or schedule (CIP) during the current or next three fiscal year: 20 points.
- or
- is included as part of the plan through an adopted resolution committing the applicant to amend its CIP and complete the project should it receive program funds: 10 points.
- (b) The extent to which the project would implement the outdoor recreation goals, objectives and priorities specified in the Plan: 4 points.
- (c) The extent to which the project would provide for priority resource or facility needs in the region as specified in the Plan: 7 points.
- (d) The project has been considered in the applicant’s public participation process: 21 maximum points.
- Points shall be awarded as follows:
  - 1. Presentation at an advertised public meeting solely for the discussion of the proposed project: 10 points.
  - 2. Presentation at a regularly scheduled advisory board meeting: 7 points.
  - 3. Presentation to community organizations, neighborhood associations, or taking of an opinion survey: 4 points.
- (e) The project is for a linear park purpose: 13 points.
- the site has been verified in writing by the Florida Department of State, Division of Historical Resources: 7 points.
- (g) The applicant has the capability to develop, operate and maintain the project: 8 maximum points.
- Points shall be awarded as follows:
  - 1. Has a full-time recreation or park department staffed to provide facility development, programming, and maintenance capabilities: 8 points.
  - 2. Has demonstrated the existence of a full-time ability to provide facility development, programming, and maintenance capabilities: 4 points.
- (2) DEVELOPMENT CRITERIA. Points shall be awarded as follows.
  - (a) The project provides for new development of entirely undeveloped property: 5 points.
  - (b) The project provides new or additional recreation facilities and opportunities:
    - 1. 3 or more facilities or opportunities: 15 points.
    - 2. 2 facilities or opportunities: 10 points.
    - 3. 1 facility or opportunity: 5 points.
  - (c) The project provides renovation of existing recreation facilities:
    - 1. 3 or more facilities: 13 points.
    - 2. 2 facilities: 9 points.
    - 3. 1 facility: 4 points.

- (d) The project provides new or renovated support facilities and improvement to existing recreation areas: 15 points.
- (e) The project provides developed pedestrian access to or along water resources, such as trails, boardwalks, or dune walkovers: 7 points.
- (f) The project provides facilities for recreational use of water resources, such as boat ramps, swimming docks, or fishing piers: 12 points.
- (g) The project provides a facility identified in the priority of new facilities needs or renovation/repair needs within the applicant’s population density set forth in the current study entitled “An Infrastructure Assessment of Local Government Recreation and Park Department Facility Needs in the State of Florida”, effective December 1995 (Infrastructure Assessment), hereby incorporated by reference and available from the Departments Division of Recreation and Parks, 3900 Commonwealth Boulevard, Mail Station #585, Tallahassee, Florida 32399-3000, (850) 488-7896: 12 points.
- (h) The project addresses the priority of infrastructure funding needs set forth in the applicant’s population density in the current study entitled “An Infrastructure Assessment of Local Government Recreation and Park Department Facility Needs in the State of Florida” identified in paragraph (g), above.
1. Higher priority in Infrastructure Assessment or combination of new construction and renovation/ repairs: 13 points.
2. Lower priority in Infrastructure Assessment: 8 points.
- (3) ACQUISITION CRITERIA. Points shall be awarded as follows:
- (a) The Project assists in conserving and protecting environmentally unique, irreplaceable and valued ecological resources such as flora, fauna, natural communities, or other special features identified in the Florida Natural Areas Inventory, incorporated by reference and available from Florida Natural Areas Inventory, 1018 Thomasville Road, Suite 200-C, Tallahassee, Florida 32303, (850) 224-8207: 13 points.
- (b) The project provides frontage on wetlands or water bodies such as rivers, lakes, or oceans: 6 points.
- (c) The project provides for development of facilities identified in the top three priority ranked index clusters of outdoor facilities needs for new construction identified within the applicant’s population density set forth in the Department’s study entitled “Infrastructure Assessment of Local Government Recreation and Park Department Facility Needs in the State of Florida” identified in paragraph (2)(g), above: 15 points.
- (d) The project provides the following pursuant to the applicant’s adopted local comprehensive plan: 23 maximum points.
- Points shall be awarded as follows.
1. Needed acreage: 15 points.
2. Needed distribution of acreage: 8 points.
- (e) The applicant has:

1. Identified development of the property in their capital improvement plan or schedule (CIP) during the current or next three fiscal years: 6 points.  
or
2. The applicant has included development of the property as part of the plan through an adopted resolution committing the applicant to amend its CIP and develop the property should it receive program funds: 3 points.

(4) TIE BREAKER SYSTEM. If two or more applications receive the same score as a result of the above evaluation, the following tie breaker system will be used to decide the priority ranking among them. Tied applicants will be evaluated according to each step of the tie-breaker system in order and will be assigned their priority accordingly. If Step 1 does not break the tie, Step 2 shall be used.

(a) Step 1 – Funding History. An order of priority among those applications with equal scores shall be established based on the per capita amount of funds previously received by the applicant from LWCF during the previous five funding years. The application from the applicant having the lowest per capita amount of funds receives the highest priority. Other applications will be arranged in descending order inversely to their applicants' per capita amount of funds received. The resident population within the applicant's jurisdictional boundaries shall be utilized to compute the applicant's per capita amount of funds received.

(b) Step 2 – Per Capita Operating Budget. The applicant with the lowest per capita expenditure of general operating funds receives the highest priority. The resident population within the applicant's jurisdictional boundaries will be divided into the applicant's total general operating budget for the applicant's current fiscal year to obtain the per capita operating fund amount.

Specific Authority 258.007 FS. Law implemented 258.004, 258.007, 375.021(4) FS. History–New 7-15-01.

#### **62D-5.073 Grant Administration.**

The following constitute procedures for administration of program grants.

(1) PROJECT AGREEMENT. After approval of the funding list by the Secretary and execution of the NPS and State project agreement, the Department and grantee shall enter into a project agreement which sets forth the responsibilities and duties of each regarding administration of the approved project, which shall be based on the Manual, this Part, and the Project's particular needs.

(2) PAYMENT BASIS. Grantees are paid approved program funds by the Department subject to the following conditions:

(a) Project Costs. Payment of project costs are made if eligible as provided for in the Manual, this Part and the project agreement. Costs shall be incurred between the effective date of, and the project completion date identified in, the project agreement, except for preagreement costs as stated in the project agreement. If the total cost of the project exceeds the grant and required match, the grantee must pay the additional cost.

(b) Costs Limits. Project planning expenses for development projects such as architectural and engineering costs, permitting fees, and project inspection fees are

eligible project costs, provided that such costs do not exceed 15 percent of the project cost. Such costs shall only be incurred between the effective date of, and the project completion date identified in, the project agreement.

(c) Retention. For development projects, the Department shall retain 10 percent of the grant award until the grantee completes the project and staff approves the completion documentation set forth in subparagraph 62D-5.073(7)(e)2., F.A.C., of this Part.

(3) ACCOUNTABILITY. The following procedures shall govern the accountability of program funds:

(a) Accounting System: Each grantee is responsible for maintaining an accounting system which meets generally accepted accounting principles and for maintaining financial records to properly account for all program and matching funds.

(b) Grant Accountability Procedure. The grantee shall also meet the requirements of the Division's Grant Accountability Procedure, effective January 23, 1997, incorporated by reference and available from the Department's Division of Recreation and Parks, 3900 Commonwealth Boulevard, Mail Station 585, Tallahassee, Florida 32399-3000, (850) 488-7896.

(4) REVERTED PROJECT FUNDS. If any funds awarded during a funding cycle are not used and become available before termination of the federal fiscal year for which appropriated, the Department may apply the funds in priority order to unfunded program applications remaining on the current priority lists.

(5) PROJECT COMPLETION CERTIFICATION. The grantee shall submit to the Department a Project Completion Certificate, FPS-A049, 7-15-01, available from the Department's Division of Recreation and Parks, 3900 Commonwealth Boulevard, Mail Station #585, Tallahassee, Florida 32399-3000, (850) 488-7896.

(6) ACQUISITION PROJECTS. The following constitute the specific procedures for administration of acquisition projects:

(a) Grant Period. The grantee shall have up to one year from the effective date of the project agreement to complete the project, unless extended by the Department staff for good cause, such as financial hardship, public controversy, or factors beyond the grantee's control, upon written request of the grantee.

(b) Ownership. Title to land acquired with program funds shall vest in the grantee.

(c) Procurement. The grantee shall purchase the property according to sections 640.1.2 and .3; 650.4 and .7; 670.1 and .3; and 675.2 of the Manual.

(d) Assumption of Title. The grantee may not purchase the property acquired with LWCF funds until the project agreement is fully executed and Department staff approves the commencement documentation required by paragraph 62D-5.073(6)(g), F.A.C., unless otherwise specified in this Part.

(e) Total Grant Award. The total grant payment is based on the project cost, negotiated purchase price, or approved appraised value, whichever is lowest. If the negotiated purchase price or approved appraised value is greater than the project cost, the grantee must pay the additional cost.

(f) Site Development. The grantee shall have up to three years from completion date set forth in the project completion certificate to develop the property unless extended by staff for good cause, such as financial hardship, public controversy, material shortage, unfavorable weather conditions, or factors beyond the grantee's control, upon written

request of the grantee.

(g) Commencement Documentation. Prior to commencement of acquisition procedures, the grantee shall submit for Department staff approval the documentation described in the Land and Water Conservation Fund Program Required Project Commencement Documentation Form, FPS-A050, 7-15-01, hereby incorporated by reference and available from the Department's Division of Recreation and Parks, 3900 Commonwealth Boulevard, Mail Station #585, Tallahassee, Florida 32399-3000, (850) 488-7896.

(h) Completion Documentation. After completion of acquisition procedures and prior to final reimbursement, the grantee shall submit for Department staff approval the documentation described in the Land and Water Conservation Fund Program Required Project Completion Documentation Form, FPS-A051, 7-15-01, hereby incorporated by reference and available from the Department's Division of Recreation and Parks, 3900 Commonwealth Boulevard, Mail Station #585, Tallahassee, Florida 32399-3000, (850) 488-7896.

(7) DEVELOPMENT PROJECTS. The following constitutes the specific procedures for administration of development projects:

(a) Grant Period. The grantee shall have up to three years from the effective date of the project agreement to complete the project, unless extended by Department staff for good cause, such as financial hardship, public controversy, material shortage, unfavorable weather conditions, or factors beyond the grantee's control, upon written request of the grantee.

(b) Procurement of Goods and Services. The grantee shall secure all goods and services for accomplishment of the project according to its adopted procurement procedures and applicable federal requirements identified in section 675.3 of the Manual.

(c) Contracting Requirement. Any contractor awarded a contract for construction of facilities under the grant must be bonded and insured pursuant to section 675.3 of the Manual.

(d) Inspections. Department staff shall perform an on-site inspection of the project site to ensure compliance with the project agreement prior to release of the final grant payment.

(e) Commencement Documentation. Prior to commencement of the project, the grantee shall submit for Department staff approval the documentation described in the Land and Water Conservation Fund Program Required Project Commencement Documentation Form, FPS-A050, 7-15-01, hereby incorporated by reference and available from the Department's Division of Recreation and Parks, 3900 Commonwealth Boulevard, Mail Station #585, Tallahassee, Florida 32399-3000, (850) 488-7896.

1. Permitting Certification. The grantee shall submit to the Department a Land and Water Conservation Program Project Permitting Certification, FPS-A052, 7-15-01, hereby incorporated by reference and available from the Department's Division of Recreation and Parks, 3900 Commonwealth Boulevard, Mail Station #585, Tallahassee, Florida 32399-3000, (850)488-7896.

2. Completion Documentation. Upon completion of the project and prior to release of the final payment, the grantee shall submit for Department staff approval the documentation described in the Land and Water Conservation Fund Program Required

Project Completion Documentation Form, FPS-A051, 7-15-01, hereby incorporated by reference and available from the Department's Division of Recreation and Parks, 3900 Commonwealth Boulevard, Mail Station #585, Tallahassee, Florida 32399-3000, (850) 488-7896.

Specific Authority 258.007 FS. Law implemented 258.004, 258.007, 375.021(4) FS. History—New 7-15-01.

#### **62D-5.074 Compliance Responsibilities.**

Subsections 62D-5.070(12)-(16), F.A.C., and the following constitute the general requirements for program compliance.

(1) **SITE DEDICATION.** Land owned by the grantee, which is developed or acquired with LWCF funds, shall be dedicated in perpetuity as an outdoor recreation site for the use and benefit of the public. Land which is leased from the federal government or another public agency by grantee must include safeguards to ensure the perpetual use requirement contained in the Land and Water Conservation Fund Act. Safeguards include such things as joint sponsorship of the project or an agreement between the parties that the lessor would assume compliance responsibility for the project site in the event of default by the lessee (grantee) or termination or expiration of the lease. These dedications must be recorded in the county's public property records by the grantee.

(2) **MANAGEMENT OF PROJECT SITES.** Grantees shall ensure by site inspections that the property acquired or developed with LWCF are being operated and maintained for outdoor recreation purposes. All projects shall be open at reasonable times and shall be managed in a safe and attractive manner appropriate for public use. Facilities shall be kept in reasonable repair for a minimum of 25 years from the date set forth on the project completion certificate to prevent undue deterioration.

(3) **CONVERSION.** Should a grantee, within the period of dedication, convert all or part of the project site to other than public outdoor recreational uses, the grantee shall replace the area, facilities, resource or site at its own expense with an acceptable project of comparable or greater value, scope and quality pursuant to section 675.9.3 of the Manual.

(4) **NON-COMPLIANCE.** Before a project is closed, the Department and the NPS shall have the right to terminate a project agreement and demand return of the program funds for non-compliance by a grantee. Failure by a grantee to comply with the provisions of this Part or the project agreement will result in the Department declaring the grantee ineligible for further participation in LWCF until such time as compliance has been obtained as determined by the Department under this rule and the Manual.

(5) **INSPECTIONS.** Department staff shall periodically inspect program projects to ensure compliance with subsections (1), (2), and (3) of this section and section 675.9 of the Manual.

Specific Authority 258.007 FS. Law implemented 258.004, 258.007, 375.021(4) FS. History—New 7-15-01.