FY 2023 Cooperative Endangered Species Conservation Fund: Habitat Conservation Plan (HCP) Land Acquisition Grants

Frequently Asked Questions

General & Eligibility

Q. Which species are eligible for consideration under this funding opportunity (i.e. eligible covered species)?
A. As defined in Section A2 of the Notice of Funding Opportunity (NOFO), eligible covered species are federally listed, candidate, and at-risk species included on an active section 10(a)(1)(B) permit. While HCPs may include unlisted species on 10(a)(1)(B) permits, only the following species will be considered when evaluating applications.

- **Federally listed species:** Species listed as threatened or endangered through section 4 of the Federal Endangered Species Act (ESA).
- **Candidate species:** Species for which the Service has sufficient information on biological status and threats to propose them as endangered or threatened under the ESA, but for which development of a proposed listing regulation is precluded by other higher priority listing activities. The current list of candidate species is available at: http://ecos.fws.gov/ecp/report/table/candidate-species.html
- **At-risk species:** For the purposes of this funding opportunity, at-risk species are those that are the subject of a positive 90-day finding, species that are the subject of a positive 12-month finding but not yet the subject of a proposed rule, species that are the subject of a proposed listing rule but not a final rule, and species included on the National Listing Workplan as of this opportunity's postdate. A full list of at-risk species can be found in the NOFO Attachments.

Q. Can applications to acquire the same property be submitted for consideration under both the Recovery Land Acquisition Grant Program and the HCP Land Acquisition Grant Program?
A. No. Applications to support the same land acquisition project may not be submitted for funding consideration under both programs in the same fiscal year.

Q. Can applicants submit additional information after the application due date?
A. Applications submitted for consideration to this national competition must be in final format by the due date specified in the funding opportunity. The only application changes that will be accepted after the due date are those that will not affect the project scope or evaluation and scoring, such as small corrective or clarifying statements, unless requested by the Service. To facilitate an efficient merit review process, applicants should ensure there are no inconsistencies or errors within the application that would cause the review panel difficulty in accurately assessing and scoring the project. Applications will not be scored under a criterion if the information provided is inaccurate, inconsistent, or cannot be reasonably located or understood.

Q. What is Tracking and Reporting Actions for the Conservation of Species (TRACS)?

A. Wildlife TRACS (Tracking and Reporting Actions for the Conservation of Species) is a tracking and reporting system used by the Service to capture information about conservation and related actions funded by its grant programs. TRACS serves as an electronic repository system for all performance, accomplishment, and real property reporting related to these Federal awards. TRACS highlights program accountability by documenting program accomplishments and results. As outlined in this announcement, grant and project statement information and performance reporting data must be entered into TRACS as authorized under 2 CFR200.102(c), 200.202, 200.301, and 200.329.

Q. Will applicants be required to utilize TRACS if awarded a grant through this opportunity?
A. Yes, if selected for an award, you will be required to enter grant and Project Narrative information in TRACS within 60 calendar days of the latter: (a) the period of performance start date; or (b) the date the award was approved. Recipients must submit all performance reports in TRACS and GrantSolutions as described in the terms and conditions specified in the Notice of Award. You should complete your performance reports in TRACS first. Once completed, TRACS will generate a performance report that you can upload in GrantSolutions. Further, recipients are responsible for entering information in the TRACS inventory modules to create real property/facility record(s). We will use these real property/facility records to ensure your periodic compliance requirement to submit reports on the status of real property acquired or constructed under a Federal award as outlined in the Notice of Award is met. The Director, Office of Grants Management, has approved the Service's use of TRACS as an alternate equivalent format for the collection of data needed for the OMB approved form, *Real Property Status Report SF 429-A* (2 CFR 1402.329(d)(4)). If the real property will be held for 15 years or more, the first report will be due within a year of the end of the period of performance, and subsequent reporting on a schedule determined by us. Reports for real property held for 15 years or more will be due at least once every five years, but could be required more often.

Q. Where can applicants find more information regarding TRACS?
A. Please refer to the Service's Training Portal site for more information on TRACS https://wsfrtraining.fws.gov/mod/page/view.php?id=215&forceview=1

Evaluation Criteria

Evaluation Criteria 1. Number of federally listed and candidate species benefited

Q. Which species are eligible for consideration under this criterion?
A. Only Federally listed and Candidate species included on the section 10(a)(1)(B) permit will be considered when evaluating applications under this criterion.

Evaluation Criteria 2. Number of at-risk species benefited

Q. Which species are eligible for consideration under this criterion?
A. Only at-risk species, as defined in Section A2 of the NOFO and listed in Attachment B, will be considered when evaluating applications under this criterion.

Evaluation Criterion 3. Contribution to Conservation

Q. What Service recovery planning documents should be referenced for listed species when responding to this criterion?
A. For the purposes of this funding opportunity, a recovery planning document is a Service-approved final recovery plan, draft recovery plan, or a recovery outline if the species has been listed less than 2 ½ years. A recovery plan serves as a guide for activities to be undertaken by Federal, State, or private entities in helping to recover and conserve endangered or threatened species. For newly listed species, a recovery outline serves to direct recovery efforts pending the completion of the species' recovery plan.

Q. How can applicants locate a Federally listed species' most recently approved recovery planning document?
A. Service-approved recovery plans and outlines can be accessed through the Service's website at https://www.fws.gov/endangered/species/recovery- plans.html.

Q. How can applicants locate a Candidate species' annual candidate assessment or species status assessment?
A. To find these documents, locate the species on the ECOS report: https://ecos.fws.gov/ecp/report/candidate-species. Select the species name to navigate to the profile page.

Q. Where can applicants locate a State Wildlife Action Plan?
A. State Wildlife Action Plans are available at https://www.fishwildlife.org/afwa-informs/state- wildlife-action-plans.

Evaluation Criterion 4. Ecosystem Functionality

Q. What is the definition of suitable habitat?
A. Suitable habitat is habitat that provides for the species needs for breeding, feeding, and sheltering. Specific parameters of suitable habitat for the target species is defined in the approved recovery planning document or in the Species Status Assessment report (if available). Other locations of suitable habitat are the species' final listing rule or ECOS public profile page.

Evaluation criterion 5. Habitat Connectivity

Q. How is existing conservation area defined and what are some examples?
A. For the purposes of this funding opportunity, an existing conservation area is any Federal or non-Federal real property protected from development by fee simple ownership, conservation or other restrictive easement, or deed restrictions, to conserve, protect and enhance species and their habitats or open space for the continuing benefit of the American people. Examples include State Wildlife Management Areas, National Parks, National Wildlife Refuges, local parks and recreation areas, and State parks.

Evaluation criterion 6. Timeliness: Threat of Conversion

Q. What are some examples of imminent and probable threats?
A. A threat is considered probable or imminent based on the level of reasonable certainty conversion to land use incompatible with species recovery will occur should the project not receive funding. For example, a developer puts a property with an approved subdivision on the market due to the lack of financial capital. The rate of residential development in the area has grown exponentially in the last several years. If not purchased for conservation purposes, the property will very likely be purchased and developed into 30 homes with 1/2 acre lots.***Non-Federal Cost Share/ Matching Requirements***

Q. How is the required non-Federal cost share determined?
A. The required non-Federal cost share is determined as a percent of the total project cost**.** If a single State (as defined under section 3 of the Endangered Species Act (ESA), includes U.S. territories) is involved in implementing the project, the application must include at least 25
percent non-Federal cost share in accordance with section 6(d) of the ESA. If two or more States are cooperators on a project, the required non-Federal cost share decreases to 10 percent of the total project cost.

To calculate the required non-Federal cost share, first determine the total cost of the project. Multiply the total cost by 25 percent (single-State project) or 10 percent (multi-State project). For example:
Single-State project with an estimated total project cost of $100,000, then: Minimum required non-Federal cost share= $25,000 (100,000 x .25= 25,000) Maximum Federal share = $75,000
Multi-State project with an estimated total project cost of $100,000:
Minimum required non-Federal cost share = $10,000 (100,000 x .10= 10,000) Maximum Federal share = $90,000

Q. What evidence must be provided by States to qualify for a reduced non-Federal cost share/ higher Federal participation rate?
A. States may increase the maximum Federal participation rate from 75 percent to 90 percent of the total project cost when two or more States cooperate on a project to conserve an endangered or threatened species of common interest [50 CFR 81.8(a)].

Section 6 (d)(2)(ii), ESA, defines cooperation as "whenever two or more States having a common interest in one or more endangered or threatened species, . . . enter jointly into agreement with the Secretary." A cooperative action is one where two or more States work on a mutual problem. Cooperating States do not necessarily have to cooperate on all aspects of, or equally in, the proposed work. However, there must be meaningful cooperation among the partners on some or all portions of the proposed work.
To qualify, the cooperating States MUST clearly explain the nature of the collaboration within the body of the project narrative, outlining the responsibilities and work to be carried out by each of the cooperating States. Documentation of the cooperative action entered into by the cooperating States, which may be in any form (e.g., memorandum, letter of agreement, recovery plan, implementation program) that meets the needs of the cooperating States, must be

submitted with the application.

Q. How do two or more cooperating States submit an application for a single project?
A. There are two options. One State may submit an Application for Federal Assistance (SF-424) and the proposal for the joint project, OR cooperating States may submit the same proposal for the joint project and separate Applications for Federal Assistance (SF-424). In the former case, the lead State agency would provide funding to any cooperating State agency through a sub-award that they administer. In the latter case, each State agency applicant would submit identical proposals (including project narratives), budget information, and forms specific to the particular State agency submitting the application. Joint proposals structured in this manner must indicate they are a multi-State proposal and must address the other State agencies on the title page and project narrative. If selected for funding, cooperating State agencies that choose this latter approach would receive their own grant award. In both cases, cooperating States should provide documentation regarding responsibilities and work to be carried out by each of the cooperating States.

Each cooperating State is responsible for submitting performance and financial reports related to the joint project. Incomplete work by any one of the cooperating States may result in a recovery of Federal funds from all States, if it is determined that the joint cooperative objective will not be accomplished.

Q. For Insular Areas (Commonwealth of the Northern Mariana Islands and the Territories of American Samoa, Guam, and the U.S. Virgin Islands) that are exempt from grant matching requirements in accordance with 48 United States Code (U.S.C.) 1469(a), Amendment of Subsection (d), how will the evaluation criterion for voluntary non-Federal cost share commitment be addressed?
A. With regard to the evaluation criterion that provides additional points for voluntary non-Federal cost sharing, applications received from the Insular Areas listed above shall receive additional points for non-Federal cost share of at least one percent of the total project costs.

Q. In what form can non-Federal cost share be contributed to the project?
A. In accordance with 50 CFR 81.8(b), the non-Federal cost share may be provided in the form of cash or in-kind contributions, including real property, as long as the costs are necessary for completion of the work being proposed and comply with Federal cost principles (see OMB Uniform Guidance). The source of the cost share, whether cash or in-kind, may be the State agency applicant or other project cooperators. Both sources and type of cost share must be appropriately identified.

Q. Can grant funds and/or the associated non-Federal cost share be used to assist an entity with Federal mitigation, minimization, and/or monitoring requirements contained in an HCP or the section 10(a)(1)(b) permit conditions?
A. No. Neither the Federal funds awarded through this opportunity nor the associated non-Federal cost share may be used to satisfy a permittee's Federal mitigation requirements. A proposal can include actions that complement mitigation, minimization, and/or monitoring actions. Proposals that include fees collected or used or lands acquired to satisfy the obligations of a State's conservation obligation can be submitted (e.g., fees collected or used or lands

acquired that exceed the Federal permit requirements and are collected, used, or acquired to meet a State's conservation obligation of a joint HCP/NCCP). However, grant funds and associated non-Federal cost share may assist in conservation obligations pursuant to State law or local ordinance that are beyond (or additive to) the Federal mitigation requirements for that HCP.

Q. Can grant funds and/or the associated non-Federal cost share be used to help an entity come into compliance with a biological opinion?
A. No. Federal action agencies and their permittees are responsible for meeting the terms and conditions in biological opinions.

Q. Can grant funds and/or the associated non-Federal cost share be used to assist an entity in complying with other Federal regulations?
A. No. Neither the Federal funds awarded through this opportunity nor the associated non-Federal cost share may be used to satisfy mitigation requirements at the Federal level (e.g., mitigation for Clean Water Act permits).

Q. Are lands proposed for acquisition as non-Federal cost share scored using the evaluation criteria to determine an application's ranking during merit review?
A. Yes. Because lands proposed for cost share purposes are part of the total project, reviewers consider both lands proposed for acquisition with grant funds and lands proposed for acquisition as cost share when assigning points for ranking criteria. Therefore, information on both must be described in adequate detail for each ranking criterion so reviewers can make informed scoring decisions.

Q. Does land proposed for acquisition as non-Federal cost share need to be necessary and reasonable to the project?
A. Yes. All non-Federal cost share must be necessary and reasonable to achieving project objectives, land acquisition included. Applicants must explain how the parcel(s) proposed as cost share relate to the overall project and provide detailed information for all ranking criteria.

Q. Who holds title to land acquired under this program or contributed as non-Federal cost share?
A. Title to real property acquired or contributed as match will vest upon acquisition in the grantee or subrecipient, respectively, as directed by 2 CFR 200.306 and 2 CFR 200.311. A Notice of Federal Participation must be recorded for all acquired lands and lands contributed as cost share.

Q. Can in-kind services or contributions be used as non-Federal cost share?
A. Yes. In-kind services or contributions can be used for part or all of the project's non-Federal cost share.

Q. Can the in-kind contribution of a landowner accepting an offer below market value for his/her property be used for non-Federal cost share?
A. Yes. The in-kind contribution of a landowner accepting a reduced price for his/her property is called a bargain sale and the difference between the established market value and the actual sale price can be used as part of or all of the non-Federal cost share.