

Texas Local Park Grants Programs Manual

**Texas Parks & Wildlife Department
Recreation Grants Branch**

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**TEXAS PARKS AND WILDLIFE
TEXAS LOCAL PARK GRANTS PROGRAMS MANUAL**

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PROGRAM SUMMARY

1. **Purpose.** The Texas Local Park Grants Programs provide matching fund grant assistance to local political subdivisions of the state for the acquisition and development of public recreation areas and facilities, and programmatic grants through the Community Outdoor Outreach Program.
2. **Delegation of Authority.** The Texas Parks & Wildlife Department is authorized to provide financial assistance to local governments for public recreation purposes under Chapter 24 of the Parks & Wildlife Code.
3. **Appropriation of Funds.** Funds are deposited to the credit of the Department monthly by the State Comptroller in accordance with Charter 24 of the Code.
4. **Acquisition and Development Grants.** Program assistance may be available a) to acquire lands and waters or interest in lands and waters for public recreation, and b) to develop basic recreation facilities to serve the general public. To be eligible for assistance, there must be a present or future need for the acquisition and development of the property for which the grant is requested or the use is proposed, the project must be endorsed by the regional planning commission or council having jurisdiction in the area where the project is proposed, and the project must be submitted by an eligible sponsor.
5. **Programmatic Grants.** Program assistance may be available to eligible tax-exempt organizations to provide basic outdoor recreation programs to currently underserved populations. Projects must be submitted by eligible sponsors, and funds may not be utilized for acquisition or development of lands or facilities.
6. **Basis for Assistance.** Program assistance is provided on a 50/50 matching basis to individual projects which are submitted to the Department for approval, except for Community Outdoor Outreach Program projects which do not require a match. Project costs shall be determined in accord with OMB Circular A-102 and A-87, and the Grants Manual, and all claims shall be subject to verification by state audit.
7. **Program Administration.** The Department's executive director or his designee is responsible for administration of the grants program. This includes evaluation and selection of projects in accord with an Open Project Selection Process; assuring compliance of projects with the requirements of the Grants Manual; inspection of projects to insure proper completion, operations and maintenance; and other functions necessary for proper program administration and management.
8. **Conversion Policy.** The local sponsor must operate and maintain by acceptable standards the properties or facilities acquired or developed for public recreation use. Further, Chapter 640.1.2. of the Manual requires that no property acquired or developed with program assistance shall be converted to other than public recreation uses without the approval of the Department and the substitution of other recreation properties of at least equal fair market value and of reasonably equivalent usefulness.

LEGISLATIVE BASIS

1. **Purpose.** Authority for Texas local park grants programs is stated in Chapter 24 of the Texas Parks & Wildlife Code, as is the authority for administration by the Parks & Wildlife Commission.

2. Parks & Wildlife Code - Chapter 24 - State Assistance For Local Parks.

SUBCHAPTER A. LOCAL PARKS FOR SMALLER COUNTIES AND MUNICIPALITIES AND OTHER POLITICAL SUBDIVISIONS

Sec. 24.001. DEFINITIONS. In this subchapter:

(1) "Political subdivision" means a county, municipality, special district, river authority, or other governmental entity created under the authority of the state or a county or municipality.

(2) "Urban area" means the area within a standard metropolitan statistical area (SMSA) in this state used in the last preceding federal census.

(3) "Park" includes land and water parks owned or operated by the state or a political subdivision.

(4) "Open space area" means a land or water area for human use and enjoyment that is relatively free of man-made structures.

(5) "Natural area" means a site having valuable or vulnerable natural resources, ecological processes, or rare, threatened, or endangered species of vegetation or wildlife.

(6) "Parks, recreational, and open space area plan" means a comprehensive plan that includes information on and analyses of parks, recreational, and open space area objectives, needs, resources, environment, and uses, and that identifies the amounts, locations, characteristics, and potentialities of areas for adequate parks, recreational, and open space opportunities.

(7) "Federal rehabilitation and recovery grants" means matching grants made by the United States to or for political subdivisions for the purpose of rebuilding, remodeling, expanding, or developing existing outdoor or indoor parks, recreational, or open space areas and facilities, including improvements in park landscapes, buildings, and support facilities.

(8) "Account" means the Texas recreation and parks account.

(9) "Rural area" means any area not included in an urban area.

(10) "Cultural resource site or area" means a site or area determined by the commission to have valuable and vulnerable cultural or historical resources.

(11) "Nonprofit corporation" means a nonpolitical legal entity incorporated under the laws of this state that has been granted an exemption from federal income tax under Section 501(c), Internal Revenue Code of 1986, as amended.

(12) "Underserved population" means any group of people that is low income, inner city, or rural as determined by the last census, or minority, physically or mentally challenged youth at risk, youth, or female.

Added by Acts 1979, 66th Leg., p. 1733, ch. 710, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1983, 68th Leg., p. 2024, ch. 367, Sec. 1, eff. Sept. 1, 1983; Acts 1993, 73rd Leg., ch. 679, Sec. 28, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 267, Sec. 1, eff. Sept. 1, 1999.

Sec. 24.002. TEXAS RECREATION AND PARKS ACCOUNT. The Texas recreation and parks account is a separate account in the general revenue fund. Money in the account may be used only as provided by this subchapter for grants to:

(1) a county or municipality with a population of less than 500,000; or

(2) any other political subdivision that is not a county or municipality.

Added by Acts 1979, 66th Leg., p. 1733, ch. 710, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1993, 73rd Leg., ch. 679, Sec. 29, eff. Sept. 1, 1993.

Sec. 24.003. ACCOUNT REVENUE SOURCE ; **REVENUE DEDICATION.** The Department shall deposit to the credit of the Texas recreation and parks account:

(1) an amount of money equal to 15 percent of the credits made to the Department under Section 151.801, Tax Code; and [or]

(2) money from any other source authorized by law.

Added by Acts 1979, 66th Leg., p. 1733, ch. 710, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1983, 68th Leg., p. 2024, ch. 367, Sec. 2, eff. Sept. 1, 1983; Acts 1993, 73rd Leg., ch. 679, Sec. 30, eff. Sept. 1, 1993.

Sec. 24.004. ASSISTANCE GRANTS. (a) The Department may make grants of money from the account to a political subdivision for use by the political subdivision as all or part of the subdivision's required share of funds for eligibility for receiving a federal rehabilitation and recovery grant.

(b) In order to receive a grant under this section, the political subdivision seeking the federal grant shall apply to the Department for the grant and present evidence that the political subdivision qualifies for the federal grant.

(c) A grant under this section is conditioned on the political subdivision qualifying for and receiving the federal grant.

Added by Acts 1979, 66th Leg., p. 1733, ch. 710, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1983, 68th Leg., p. 2025, ch. 367, Sec. 3, eff. Sept. 1, 1983; Acts 1993, 73rd Leg., ch. 679, Sec. 31, eff. Sept. 1, 1993.

Sec. 24.005. DIRECT STATE MATCHING GRANTS. (a) The Department shall make grants of money from the account to a political subdivision to provide one-half of the costs of the planning, acquisition, or development of a park, recreational area, or open space area to be owned and operated by the political subdivision.

(b) In establishing the program of grants under this section, the Department shall adopt rules and regulations for grant assistance.

(c) Money granted to a political subdivision under this section may be used for the operation and maintenance of parks, recreational areas, cultural resource sites or areas, and open space areas only:

(1) if the park, site, or area is owned or operated and maintained by the Department and is being transferred by the commission for public use to a political subdivision for operation and maintenance; and

(2) during the period the commission determines to be necessary to effect the official transfer of the park, site, or area.

(d) The Department shall make grants of money from the account to a political subdivision or nonprofit corporation for recreation, conservation, or education programs for underserved populations to encourage and implement increased access to and use of parks, recreational areas, cultural resource sites or areas, and open space areas by underserved populations.

(e) The Department may provide from the account for direct administrative costs of the programs described by this subchapter.

Added by Acts 1979, 66th Leg., p. 1733, ch. 710, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1983, 68th Leg., p. 2025, ch. 367, Sec. 4, eff. Sept. 1, 1983; Acts 1993, 73rd Leg., ch. 679, Sec. 32, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 267, Sec. 2, eff. Sept. 1, 1999.

Sec. 24.006. FUNDS FOR GRANTS TO LOCAL GOVERNMENTS. When revenues to the Texas recreation and parks account exceed \$14 million per year, an amount not less than 15 percent shall be made available for grants to local governments for up to 50 percent of the cost of acquisition or development of indoor public recreation facilities for indoor recreation programs, sports activities, nature programs, or exhibits.

Added by Acts 1979, 66th Leg., p. 1733, ch. 710, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1983, 68th Leg., p. 2025, ch. 367, Sec. 5, eff. Sept. 1, 1983; Acts 1993, 73rd Leg., ch. 679, Sec. 33, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 267, Sec. 3, eff. Sept. 1, 1999.

Sec. 24.007. ACCOUNT USE TO BE CONSISTENT WITH PLANS. No grant may be made under Section 24.005 of this code nor may account money be used under Section 24.006 of this code unless:

(1) there is a present or future need for the acquisition and development of the property for which the grant is requested or the use is proposed; and

(2) a written statement is obtained from the regional planning commission having jurisdiction of the area in which the property is to be acquired and developed that the acquisition and development is consistent with local needs.

Added by Acts 1979, 66th Leg., p. 1733, ch. 710, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1993, 73rd Leg., ch. 679, Sec. 34, eff. Sept. 1, 1993.

Sec. 24.008. ACQUISITION OF PROPERTY. (a) No property may be acquired with grant money made under this subchapter or by the Department under this subchapter if the purchase price exceeds the fair market value of the property as determined by one independent appraiser.

(b) Repealed by Acts 1999, 76th Leg., ch. 267, Sec. 7, eff. Sept. 1, 1999.

(c) Property may be acquired with provision for a life tenancy if that provision facilitates the orderly and expedient acquisition of the property.

(d) Repealed by Acts 1999, 76th Leg., ch. 267, Sec. 7, eff. Sept. 1, 1999.

(e) If land or water designated for park, recreational, cultural resource, or open space use is included in the local and regional park, recreational, cultural resource, and open space plans for two or more jurisdictions, the two or more jurisdictions may cooperate under state law to secure assistance from the account to acquire or develop the property. In those cases, the Department may modify the standards for individual applicants but must be assured that a cooperative management plan for the land or water can be developed and effectuated and that one of the jurisdictions possesses the necessary qualifications to perform contractual responsibilities for purposes of the grant.

(f) All land or water purchased with assistance from the account shall be dedicated for park, recreational, cultural resource, indoor recreation center, and open space purposes in perpetuity and may not be used for any other purpose, except where the use is compatible with park, recreational, cultural resource, and open space objectives, and the use is approved in advance by the Department.

Added by Acts 1979, 66th Leg., p. 1733, ch. 710, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1993, 73rd Leg., ch. 679, Sec. 35, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 267, Sec. 4, 7, eff. Sept. 1, 1999.

Sec. 24.009. PAYMENTS, RECORDS, AND ACCOUNTING. (a) On the approval of a grant under this subchapter and on the written request by the director, the comptroller of public accounts shall issue a warrant drawn against the Texas recreation and parks account and payable to the political subdivision or nonprofit corporation in the amount specified by the director.

(b) Each recipient of assistance under this subchapter shall keep records as required by the Department, including records which fully disclose the amount and the disposition of the proceeds by the recipient, the total cost of the acquisition, a copy of the title and deed for the property acquired, the amount and nature of that portion of the cost of the acquisition supplied by other funds, and other records that facilitate effective audit. The director and the comptroller, or their authorized representatives, may examine any book, document, paper, and record of the recipient that are pertinent to assistance received under this subchapter.

(c) The recipient of funds under this subchapter shall, on each anniversary date of the grant for five years after the grant is made, furnish to the Department a comprehensive report detailing the present and anticipated use of the property, any contiguous additions to the property, and any major changes in the character of the property, including the extent of park development which may have taken place.

Added by Acts 1979, 66th Leg., p. 1733, ch. 710, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1993, 73rd Leg., ch. 679, Sec. 36, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 267, Sec. 5, eff. Sept. 1, 1999.

Sec. 24.011. NONCOMPLIANCE WITH SUBCHAPTER.

The attorney general shall file suit in a court of competent jurisdiction against a political subdivision or nonprofit corporation that fails to comply with the requirements of this subchapter to recover the full amount of the grant plus interest on that amount of five percent a year accruing from the time of noncompliance or for injunctive relief to require compliance with this subchapter. If the court finds that the political subdivision or nonprofit corporation has not complied with the requirements of this subchapter, it is not eligible for further participation in the program for three years following the finding for noncompliance.

Added by Acts 1979, 66th Leg., p. 1733, ch. 710, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1999, 76th Leg., ch. 267, Sec. 6, eff. Sept. 1, 1999.

Sec. 24.012. ACCOUNT NOT TO BE USED FOR PUBLICITY. No money credited to the account may be used for publicity or related purposes.

Added by Acts 1979, 66th Leg., p. 1733, ch. 710, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1993, 73rd Leg., ch. 679, Sec. 38, eff. Sept. 1, 1993.

Sec. 24.013. AUTHORITY OF POLITICAL SUBDIVISIONS TO HAVE PARKS. This subchapter does not authorize a political subdivision to acquire, develop, maintain, or operate a park, recreational area, open space area, or natural area.

Added by Acts 1979, 66th Leg., p. 1733, ch. 710, Sec. 1, eff. Sept. 1, 1979.

SUBCHAPTER B. PARKS FOR LARGE COUNTIES AND MUNICIPALITIES

Sec. 24.051. DEFINITIONS. In this subchapter:

(1) "Account" means the large county and municipality recreation and parks account.

(2) "Cultural resource site or area" means a site or area determined by the commission to have valuable and vulnerable cultural or historical resources.

(3) "Federal rehabilitation and recovery grants" means matching grants made by the United States to or for political subdivisions for the purpose of rebuilding, remodeling, expanding, or developing existing outdoor or indoor parks, recreational, or open space areas and facilities, including improvements in park landscapes, buildings, and support facilities.

(4) "Large county or municipality" means a county or municipality with a population of 500,000 or more.

(5) "Natural area" means a site having valuable or vulnerable natural resources, ecological processes, or rare, threatened, or endangered species of vegetation or wildlife.

(6) "Nonprofit corporation" means a nonpolitical legal entity incorporated under the laws of this state that has been granted an exemption from federal income tax under Section 501(c), Internal Revenue Code of 1986, as amended.

(7) "Open space area" means a land or water area for human use and enjoyment that is relatively free of man-made structures.

(8) "Park" includes land and water parks owned or operated by the state or a political subdivision.

(9) "Parks, recreational, and open space area plan" means a comprehensive plan that includes information on and analyses of parks, recreational, and open space area objectives, needs, resources, environment, and uses, and that identifies the amounts, locations, characteristics, and potentialities of areas for adequate parks, recreational, and open space opportunities.

(10) "Political subdivision" means a county, municipality, special district, river authority, or other governmental entity created under the authority of the state or a county or municipality.

(11) "Underserved population" means any group of people that is low income or inner city, as determined by the last census, or minority, physically or mentally challenged youth at risk, youth, or female.

Sec. 24.052. LARGE COUNTY AND MUNICIPALITY RECREATION AND PARKS ACCOUNT. The large county and municipality recreation and parks account is a separate account in the general revenue fund. Money in the account may be used only as provided by this subchapter.

Sec. 24.053. ACCOUNT REVENUE SOURCE; DEDICATION. The Department shall deposit to the credit of the large county and municipality recreation and parks account:

(1) an amount of money equal to 10 percent of the credits made to the Department under Section 151.801, Tax Code; and

(2) money from any other source authorized by law.

Sec. 24.054. ASSISTANCE GRANTS. (a) The Department may make grants of money from the account to a large county or municipality for use by the county or municipality as all or part of the county's or municipality's required share of funds for eligibility for receiving a federal rehabilitation and recovery grant.

(b) In order to receive a grant under this section, the county or municipality seeking the federal grant shall apply to the Department for the grant and present evidence that the county or municipality qualifies for the federal grant.

(c) A grant under this section is conditioned on the county or municipality qualifying for and receiving the federal grant.

Sec. 24.055. DIRECT STATE MATCHING GRANTS. (a) The Department shall make grants of money from the account to a large county or municipality to provide one-half of the costs of the planning, acquisition, or development of a park, recreational area, or open space area to be owned and operated by the county or municipality.

(b) In establishing the program of grants under this section, the Department shall adopt rules and regulations for grant assistance.

(c) Money granted to a county or municipality under this section may be used for the operation and maintenance of parks, recreational areas, cultural resource sites or areas, and open space areas only:

(1) if the park, site, or area is owned or operated and maintained by the Department and is being transferred by the commission for public use to the county or municipality for operation and maintenance; and

(2) during the period the commission determines to be necessary to effect the official transfer of the park, site, or area.

(d) The Department shall make grants of money from the account to a large county or municipality or to a nonprofit corporation for use in a large county or municipality for recreation, conservation, or education programs for underserved populations to encourage and implement increased access to and use of parks, recreational areas, cultural resource sites or areas, and open space areas by underserved populations.

(e) The Department may provide from the account for direct administrative costs of the programs described by this subchapter.

Sec. 24.056. FUNDS FOR GRANTS TO LARGE COUNTIES AND MUNICIPALITIES. When revenue to the large county and municipality recreation and parks account exceeds \$14 million per year, an amount not less than 15 percent shall be made available for grants to large counties and municipalities for up to 50 percent of the cost of acquisition or development of indoor public recreation facilities for indoor recreation programs, sports activities, nature programs, or exhibits.

Sec. 24.057. ACCOUNT USE TO BE CONSISTENT WITH PLANS. No grant may be made under Section 24.055 nor may account money be used under Section 24.056 unless:

(1) there is a present or future need for the acquisition and development of the property for which the grant is requested or the use is proposed; and

(2) a written statement is obtained from the regional planning commission having jurisdiction of the area in which the property is to be acquired and developed that the acquisition and development is consistent with local needs.

Sec. 24.058. ACQUISITION OF PROPERTY. (a) No property may be acquired with grant money made under this subchapter or by the Department under this subchapter if the purchase price exceeds the fair market value of the property as determined by one independent appraiser.

(b) Property may be acquired with provision for a life tenancy if that provision facilitates the orderly and expedient acquisition of the property.

(c) If land or water designated for park, recreational, cultural resource, or open space use is included in the local and regional park, recreational, cultural resource, and open space plans for two or more large counties or municipalities, the two or more large counties or municipalities may cooperate under state law to secure assistance from the account to acquire or develop the property. In those cases, the Department may modify the standards for individual applicants but must be assured that a cooperative management plan for the land or water can be developed and effectuated and that one of the counties or municipalities possesses the necessary qualifications to perform contractual responsibilities for purposes of the grant.

(d) All land or water purchased with assistance from the account shall be dedicated for park, recreational, cultural resource, indoor recreation center, and open space purposes in perpetuity and may not be used for any other purpose, except where the use is compatible with park, recreational, cultural resource, and open space objectives, and the use is approved in advance by the Department.

Sec. 24.059. PAYMENTS, RECORDS, AND ACCOUNTING. (a) On the approval of a grant under this subchapter and on the written request by the director, the comptroller shall issue a warrant drawn against the large county and municipality recreation and parks account and payable to the county, municipality, or nonprofit corporation in the amount specified by the director.

(b) Each recipient of assistance under this subchapter shall keep records as required by the Department, including records that fully disclose the amount and the disposition of the proceeds by the recipient, the total cost of the acquisition, a copy of the title and deed for the property acquired, the amount and nature of that portion of the cost of the acquisition supplied by other funds, and other records that facilitate effective audit. The director and the comptroller, or their authorized representatives, may examine any book, document, paper, and record of the recipient that are pertinent to assistance received under this subchapter.

(c) The recipient of funds under this subchapter shall, on each anniversary date of the grant for five years after the grant is made, furnish to the Department a comprehensive report detailing the present and anticipated use of the property, any contiguous additions to the property, and any major changes in the character of the property, including the extent of park development that may have taken place.

Sec. 24.060. NONCOMPLIANCE WITH SUBCHAPTER.

The attorney general shall file suit in a court of competent jurisdiction against a county, municipality, or nonprofit corporation that fails to comply with the requirements of this subchapter to recover the full amount of the grant plus interest on that amount of five percent a year accruing from the time of noncompliance or for injunctive relief to require compliance with this subchapter. If the court finds that the county, municipality, or nonprofit corporation has not complied with the requirements of this subchapter, it is not eligible for further participation in the program for three years following the finding for noncompliance.

Sec. 24.061. ACCOUNT NOT TO BE USED FOR PUBLICITY. No money credited to the account may be used for publicity or related purposes.

Sec. 24.062. AUTHORITY OF LARGE COUNTY OR MUNICIPALITY TO HAVE PARKS. This subchapter does not authorize a large county or municipality to acquire, develop, maintain, or operate a park, recreational area, open space area, or natural area.

DEFINITIONS

The definitions given below apply to terms used in this Manual.

ACCRUED EXPENDITURES. The charges incurred by the grantee during a given period requiring the provision of funds for: (1) goods and other tangible property received; (2) services performed by the employees, contractors, sub-grantees, and other payees; and (3) amounts becoming owed under projects for which no current services or performance are required.

AGREEMENT, OR PROJECT AGREEMENT. A contract executed between the local sponsor and the State setting forth mutual obligations with regard to all or part of a specific project.

AMENDMENT. An official alteration of the project agreement which, when signed by the State and the local sponsor, modifies the agreement in a specified manner.

APPLICANT. The local sponsor.

APPLICATION GUIDE. The set of forms and instructions to be used for submitting an application for program assistance.

APPROPRIATION. The amount of funds which the Department makes available for purposes of the Account.

APPROVAL. The signing by the executive director or designated official of a project agreement and/or amendment resulting in the obligation of a specified amount of state funds for a specific purpose.

AQUATIC FACILITIES. Manmade swimming pools and associated appurtenances.

ASSISTANCE. Program grant funds made available by the Department to a local sponsor in support of a public recreation project.

CASH CONTRIBUTIONS. The grantee's cash outlay, including the outlay of money contributed to the grantee by other public agencies and institutions, and private organizations and individuals.

CHAPTER. A segment of the Grants Manual which is sometimes referred to as a "section".

CHAPTER 640.1.2. PROVISIONS. Provisions of the Grants Manual requiring permanent public recreation use dedication for program assisted properties.

CODE. The Texas Parks & Wildlife Code.

COMMISSION. The Texas Parks & Wildlife Commission.

COMMUNITY OUTDOOR OUTREACH PROGRAM (CO-OP). See Grant Programs.

COMPLIANCE. Meeting all program guidelines for active and previously-funded grant projects.

CONSERVATION ELEMENTS. The use of xeriscape/native plant materials for landscaping, drip or treated effluent irrigation systems, renovation of obsolete lighting systems with more energy efficient systems, recycled materials for facility construction, environmental education and interpretation, significant tree plantings where no trees exist, etc.

CONVERSION. Use of a program assisted area for other than public recreation, requiring mitigation, per Chapter 640.1.2. of the Grants Manual.

CULTURAL RESOURCE SITE OR AREA. A site or area determined to have valuable and vulnerable cultural or historical resources.

DATE OF COMPLETION. The date when all work under a project is completed or the date in the grant award document, or any amendment thereto, on which state assistance ends, whichever comes first.

DEPARTMENT. Texas Parks & Wildlife Department. The state agency responsible for administration of the program under the authority of Chapter 24 of the Parks & Wildlife Code.

DIRECT EXPENDITURES OR DIRECT COSTS. Those expenditures or costs that can be associated with a specific project.

DIRECTOR. The executive director of Texas Parks & Wildlife Department or any other officer or employee of the Department to whom the executive director's authority is delegated.

DISALLOWED COSTS. Disallowed costs are those charges to a grant which the Department or its representative determines to be unallowable.

DISBURSEMENTS. Grantee payments by check or electronic funds transfer, represented by valid invoices and documentation.

ELECTRONIC FUNDS TRANSFER (EFT). An electronic direct payment made to a grantee upon request for reimbursement from the grantee. An alternative to reimbursement by state warrant.

EXPENDITURES. Sponsor payments or outlays by cash, check or electronic funds transfer represented by valid invoice and disbursement documentation (see Disbursements).

FISCAL YEAR (STATE). A period of time which begins on September 1 and ends on the following August 31.

FORCE ACCOUNT WORK. The performance of work on a development project with the forces and resources of the project sponsor, including personal services, equipment, and materials, as opposed to development by contract with an outside organization or individual.

GENERAL PROVISIONS. A form listing special terms of the Project Agreement.

GRANT. A specific sum of money provided toward the execution of a specific project, consistent with the terms of a signed agreement.

GRANT CLOSEOUT. The process by which the Department determines that all applicable administrative actions and all required work of the project have been completed.

GRANT PROGRAMS.

- COMMUNITY OUTDOOR OUTREACH PROGRAM (CO-OP) GRANT. Programmatic grants to local governments or non-profit organizations to introduce non-traditional groups to outdoor opportunities related to the mission of the Texas Parks & Wildlife Department.
- INDOOR (FACILITY) GRANT: Matching grant (50% of project costs) for communities with a population less than 500,000 to acquire, develop, or renovate indoor recreation facilities.

- OUTDOOR RECREATION GRANT: Matching grant (50% of project cost) for communities with a population less than 500,000 to acquire and develop parkland or to renovate existing recreation areas.
- SMALL COMMUNITY GRANT: Matching grant (50% of project costs) for communities under 20,000 in population to acquire and develop parkland.
- URBAN INDOOR (FACILITY) GRANT: Matching grant (50% of project costs) for communities with a population of 500,000 or more to acquire, develop or renovate indoor recreation facilities.
- URBAN OUTDOOR RECREATION GRANT: Matching grant (50% of project costs) for communities with a population of 500,000 or more to acquire and develop parkland or to renovate existing recreation areas.

GRANTEE. Grant recipient or sponsor.

GRANTS MANUAL. The document promulgating the guidelines for administration of the grants program.

INDOOR FACILITIES. Recreation opportunities which occur inside a building.

IN-KIND CONTRIBUTIONS. Contributions other than cash or land provided by (1) the grantee; (2) other public agencies and institutions; and/or (3) private organizations and individuals. In-kind contributions may consist of the value of services directly benefiting and specifically identifiable to the project.

LWCF. Land and Water Conservation Fund - federal grant assistance.

MANUAL. See GRANTS MANUAL.

MARKET VALUE. The most probable price in terms of money which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus.

MASTER PLAN. See Parks, Recreation & Open Space Master Plan.

MATCH OR GRANT CEILING. See Support Ceiling.

MATCHING SHARE. Grant applicant's share of project costs.

NATURAL AREAS. Areas that are significant for their relatively undisturbed ecosystem which exhibit regionally representative geological, floral, faunal, or hydrological features. Further, these areas have the potential to serve regional or statewide recreation needs. Natural areas can serve as: greenbelts/open spaces; locations for passive activities; preservation areas for unique natural features; and interpretive sites which highlight or explain ecosystem processes.

NON-PROFIT CORPORATION (NOT FOR PROFIT). A non-political legal entity incorporated under the laws of this state that has been granted an exemption from federal income tax under Section 501(c), Internal Revenue Code of 1986, as amended.

OBLIGATIONS. The amount awarded or approved in specific grant agreements which will require payment (outlays) when work is completed and billed at a later date.

OPEN PROJECT SELECTION PROCESS. Scoring system used to evaluate grant applications.

OUTLAYS. Charges made to the grant project. Outlays may be reported on a cash or accrued expenditure basis.

PARCEL. A piece of land, regardless of size, in one ownership (title).

PARK. Land and water recreation areas owned or operated by a political subdivision. Land which has been dedicated, platted, managed, used, or acquired for public park and recreation purposes is considered a park, regardless of the level of development.

PARKS, RECREATION & OPEN SPACE MASTER PLAN: A guiding document for the acquisition and development of parkland, open space and recreation facilities. See Parks, Recreation & Open Space Guidelines in the application materials.

PLANS AND SPECIFICATIONS. The detailed working drawings and technical specifications necessary to guide the construction, determine the scope of the work, and provide a firm basis for competitive bidding and contractual obligations.

POLITICAL SUBDIVISION. A city, county, special district, river authority or other governmental entity created under authority of the state.

PROGRAM. Texas local park grants or LWCF funded grant programs.

PROGRAM INCOME. Earnings by the grantee realized from the grant-supported activities. Such earnings exclude interest income and may include, but will not be limited to, income from service fees, sale of commodities, usage or rental fees, sale of assets purchased with grant funds, and royalties on patents and copyrights. Program income can be reported on a cash or accrued income basis.

PROJECT. The grant project as reflected in the project agreement.

PROJECT AGREEMENT. See Agreement.

PROJECT COSTS. All necessary charges made by a grantee in accomplishing the objectives of a project during the project period.

PROJECT PERIOD. The period of time specified in the grant agreement covering the approved portions of a project during which all work must be accomplished.

PROJECT PRIORITY SCORING SYSTEM.

PROJECT SPONSOR. See Grant Recipient.

PROJECT TYPES. See also Grant Programs.

A. **Acquisition Project:** The acquisition of real property or interests and rights thereto for a well-defined recreation area and/or purpose.

B. **Development Project:** The development of structures, utilities, or facilities necessary for the recreation use of an area.

C. **Combination Project:** Acquisition of real property and the subsequent development of recreation facilities in a single project.

D. **Community Outdoor Outreach Project:** (CO-OP) Programming of outdoor activities for underserved populations that are related to the mission of the Texas Parks & Wildlife Department (see Chapter 640.1.4).

E. **Facility Transfer:** Transfer of a TPWD site to a local jurisdiction (see Chapter 640.1.4).

PUBLIC AGENCY. Any non-private entity which serves a governmental purpose. The term includes but is not limited to state agencies, political subdivisions, Indian tribes, and public authorities and commissions that have governmental functions.

PUBLICLY-OWNED NON-PARKLAND. Lands which have never been dedicated, platted, managed, used, or acquired for public park or recreation uses.

QUALIFICATION. The determination made by the Department that a project is in accord with program guidelines and meets Department criteria for recreation projects. Qualification does not constitute an obligation of funds or a commitment to obligate funds, but rather a technical finding of a project's adequacy and eligibility at the time of qualification.

REAL PROPERTY. Land, immovable improvements on land, and rights appurtenant thereto.

REGIONAL PARK. See Project Types.

REGIONAL PLANNING COMMISSION OR COUNCIL. Voluntary associations of local government formed under Texas law which coordinate planning and conduct required TRACS Reviews.

REIMBURSEMENT BY STATE WARRANT. A payment made to a grantee with a state warrant upon request for reimbursement from the grantee. An alternative funds drawdown is through Electronic Funds Transfer (EFT).

RURAL AREA. Any area not included in an urban area.

SECTION. A segment of the Grants Manual usually referred to as a Chapter.

SINGLE AUDIT. Audit performed according to the Texas Single Audit Circular for state funded projects and according to OMB circular A-133 for federally funded projects.

SITE PLAN. A proposed/conceptual development/use plan for an individual park and recreation area or site.

SPONSOR. The local grant applicant, recipient or grantee.

STATE. The State of Texas. In the grants program, it is sometimes used as a synonym for the Department or grantor.

STATE FUNDS AUTHORIZED. The total amount of state funds authorized for obligations.

SUPPORT CEILING. The maximum amount of financial assistance that will be provided on a project as specified in the agreement.

SUPPORT FACILITIES. Those facilities not themselves used for recreation but which support public recreational use of an area, such as access roads, concession buildings, maintenance facilities, parking areas, water systems, sanitary facilities, etc.

SUSPENSION. An action by the Department which temporarily suspends state assistance under the project

pending corrective action by the grantee or pending a decision to terminate the grant by the Department.

TERMINATION. Cancellation of state assistance, in whole or in part, for a project at any time prior to the date of completion.

TEXAS ANTIQUITIES COMMITTEE (TAC). Committee, or Antiquities Committee, or Texas Antiquities Committee--as redefined by the 74th Texas Legislature within Section 191.003 of the Antiquities Code means the Texas Historical Commission and/or staff members of the Texas Historical Commission.

TEXAS OUTDOOR RECREATION PLAN (TORP). The statewide comprehensive outdoor recreation plan. See LWCRP.

TORP. See Texas Outdoor Recreation Plan.

TRACT. A piece of land, composed of one or more contiguous parcels.

TRACS. Texas Review and Comment System (see Chapter 650.8) and COG.

UNDERSERVED CONSTITUENTS. Those populations that traditionally do not participate in Texas Parks & Wildlife Department activities and programs. These populations include: females, minorities, low income, youth, physically and mentally challenged, as well as rural and inner city residents.

UNDERSERVED POPULATION. Any group of people that is low-income, inner city, or rural as determined by the last census, or ethnic minority, physically or mentally challenged, youth at risk, youth, or female.

UNOBLIGATED BALANCE. The portion of the funds authorized (apportioned) by the Comptroller which has not been obligated by the Department as shown on Department records and is determined by deducting the cumulative obligations from the funds authorized.

UNPAID OBLIGATIONS. The dollar amount of legal obligations on approved grants which have not yet been paid out to grantees.

UPARR. A federal grant assistance program called the Urban Park and Recreation Recovery Act Program.

WAIVER OF RETROACTIVITY. An administrative alternative allowing acquisition of lands prior to grant approval and Department authorization which maintains program reimbursement eligibility.

WITHDRAWAL. The unilateral retraction by the Department of (1) a previously approved project prior to reimbursement of any project costs incurred by the project sponsor, or (2) an application prior to scoring.

GENERAL PROJECT CRITERIA

1. Purpose. The Parks & Wildlife Code authorizes the Department to provide financial assistance to local governments for the acquisition and/or development of public recreation areas and facilities. Such assistance shall be on a matching basis to a maximum fifty (50) percent of the total project related allowable costs, with the exception of Community Outdoor Outreach Project grants which may reimburse up to 100% of sponsor costs.

2. Permanent Public Park & Recreation Dedication. All areas receiving program assistance shall be dedicated for public park and recreation use in perpetuity, with the exception of leased properties (see Section 24.007 of the Texas Parks & Wildlife Code). Leased areas shall be dedicated for public park and recreation use for the term of the lease only. No property acquired or developed with program assistance shall be converted to other than public park and recreation uses without the approval of the Department and the substitution of other park and recreation properties of at least equal fair market value and equivalent park and recreation usefulness (see Chapter 675.9.3).

3. Project Proposals. The Department has the initial prerogative and responsibility for determining the scope and effort involved in a project proposal. A project can be designed as follows: 1) acquisition and/or development work at one site or 2) acquisition and/or development work, sponsored by a single local unit of government, at several non-contiguous sites.

A project proposal, except in the most unusual circumstances, should embrace only those efforts that can be accomplished within a three-year period (subject to extension).

4. Types of Projects.

A. Acquisition: Includes the acquisition of land and waters or partial rights to them.

B. Development: Includes the development of certain recreation activity and support facilities needed by the public for recreation use of an area.

C. Combined: Includes acquisition and development.

D. Community Outdoor Outreach Program: Programmatic grants to local governments or not-for-profit organizations as outlined in Chapter 640.4.

E. Regional Park: Large, regionally significant recreation areas comprised of urban intensive use areas and/or urban or rural park lands which serve urban areas, linear greenways, cultural resource areas, natural resource conservation areas, aquatic habitat, or surface water resource areas. These

projects should leverage funds, support, and operations with the private sector, non-profits, educational entities, and other governmental entities where possible, but one local government must possess the authority to contract for matching funds with the Department.

F. Facility Transfers: Grants to effectuate the transfer by the Parks & Wildlife Commission of Department owned or operated and maintained facilities to a political subdivision for operation and maintenance. Transfer must be mutually agreed to as evidenced by written agreement, and grants may include park improvements, renovations, and temporary operation funds.

5. Multiple-Purpose Projects. Multi-purpose projects which involve uses other than recreation may be eligible for assistance. The sponsor must include a careful and complete justification and explanation with each proposal. Two general types of multiple-purpose projects are eligible for assistance:

A. Projects in which a specifically designated portion of the multiple-purpose area or facility will be used primarily for recreation and/or recreation support, such as picnicking facilities adjacent to a new public reservoir. Program assistance is limited to the designated recreation area and/or facility and support facilities.

B. Projects which will provide identifiable recreation benefits as a whole, as opposed to specific segments of it. For example, a water impoundment constructed primarily for flood control might also have important recreation benefits. In such a case, at the Department's discretion, assistance might be made available only for the portion of the cost, on a pro rata basis, of the facility which is clearly attributable to recreation above and beyond the facility's cost for its non-recreation function.

The proposal must fully disclose the nature and extent of other uses and the relationship of the proposed recreation project to the total area and development.

6. Assistance from Other Agencies. Project proposals submitted to the Department for program assistance may also be submitted to other public agencies for aid. The local matching share of an approved project may consist of other financial assistance only where the statutory provisions of the subsequent grants program explicitly allows recipients to use such assistance to match state funds with state funds or federal funds with federal funds (see Chapter 670.1.6). The application to the Department should describe any such submissions or awards.

7. Control and Tenure. For lands included in a project proposal, the project sponsor must have title or adequate control and tenure of the project area in order to provide reasonable assurances that a conversion under Chapter 640.1.2. provisions will not occur without Department approval. Copies of the property titles, leases, easements, or other appropriate documents must be submitted for state inspection.

A. Property that is proposed for acquisition and/or development and which is subject to reversionary interests upon discontinuation of the recreation use may be eligible to receive program assistance. The Department's determination in this regard will rest on the compatibility of uses proposed by the project sponsor with that stipulated in the reversionary clause and receipt of satisfactory assurances from the sponsor that the property so assisted will be replaced in accord with specific Chapter 640.1.2. provisions applicable to such future conversion should the reversionary interest be exercised.

Such assurances are contained in the General Provisions of the Project Agreement and may also apply to termination provisions included in leases and special use permits, provided such revocation is not at the sole discretion of the lessor.

B. Properties subject to outstanding interests, such as mineral rights that, if exercised, may not be compatible with the continued viable use of the area for recreation, may also be agreed to under certain specific conditions. The Department will agree to such a future conversion based upon a sponsor's agreement that these lands will be replaced in accord with Chapter 640.1.2. provisions. This specific assurance provision is contained in the General Provisions of the Project Agreement.

Such concerns are only with those reversionary rights or outstanding interests that, should they occur or be exercised, would result in the project area not being viable for continued public recreation use as determined by the Department at the time of project submission and where the sponsor certifies and the Department agrees that the possibility of the reversionary interest or outstanding rights being exercised is remote. These decisions will be made on a case by case basis. When significant outstanding rights are involved, the project application will also contain an opinion from local counsel that the sponsor has the authority to enter into a grant contract which may require the provision of replacement land. Other rights and interests which, if exercised, will not adversely affect the recreation utility or viability of the area may be excepted from Chapter 640.1.2. provisions purview upon recommendation of the sponsor and concurrence by the Department.

C. Waiver of Retroactivity. A sponsor may assume legal control of a site for which grant assistance is being sought

prior to grant approval only if they have obtained a Waiver of Retroactivity under the guidelines as shown in Chapter 670.1.4.B.

8. Leasing of Program Assisted Lands. A project sponsor may provide for the operation of a program assisted facility by leasing the facility to a private organization or individual. As the principal grantee, the sponsor is ultimately accountable for assuring compliance with the applicable program requirements and therefore the delegation or transfer of certain responsibilities to sub-grantees or lessees does not relieve the sponsor of its compliance burden. Accordingly, the sponsor must irrevocably agree to provide suitable replacement property should the public use of the leased facility be restricted or the recreation resource be compromised (see also Chapter 675.9.5. Post-Compliance Responsibilities and Conversion Guidelines).

All lease documents for the operation of program assisted projects by private organizations or individuals must address the following:

A. In order to protect the public interest, the sponsor must have a clear ability to periodically review the performance of the lessee and terminate the lease if its terms and the provisions of the grant agreement, including standards of maintenance, public use, and accessibility are not met.

B. The document should clearly indicate that the leased area is to be operated by the lessee for public recreation purposes in compliance with program provisions and implementing guidelines.

C. The document should require that the area be identified as being publicly owned and operated as a public recreation facility in all signs, literature and advertising and that the lessee be identified as such so as not to mislead the public into believing that the area is privately owned. Signs should also be posted identifying the facility as being open to the public in accord with Chapter 675.3.

D. The document should require that all fees charged by the lessee to the public must be competitive with similar private facilities.

E. The document should make clear that compliance with all civil rights and accessibility legislation (e.g., Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, Americans with Disabilities Act) is required, and that compliance will be indicated by signs posted in visible public areas, statements in public information brochures, etc.

9. Use of Existing Public Land for Matching Purposes. Existing publicly owned lands can only be used as a part of the local matching share of a project if such land has never been dedicated, platted, managed, used, or acquired for public park and recreation use.

ACQUISITION CRITERIA

1. Types of Acquisition. Acquisition of lands and waters for public recreation, including new areas or additions to existing parks, forests, wildlife areas, beaches, and other similar areas dedicated to recreation may be eligible for assistance. Acquisition can be by fee simple title or by whatever lesser rights will insure the desired public use. The types of acquisitions that are eligible for assistance include, but are not limited to:

A. Areas with frontage on oceans, rivers, streams, lakes, estuaries, and reservoirs that will provide water-based public recreation opportunities, or the acquisition of water bodies themselves.

B. Land for creating water impoundments to provide water-based public recreation opportunities.

C. Areas that provide special recreation opportunities, such as floodplains, wetlands, open space, and areas adjacent to scenic highways.

D. Natural areas and preserves and outstanding scenic areas where the objective is to preserve the scenic or natural values, including areas of physical or biological importance and wildlife areas. These areas must be open to the general public for recreation use to the extent that the natural attributes of the areas will not be seriously impaired or lost.

E. Land within urban areas for day-use picnic areas, neighborhood playgrounds, and tot lots; areas adjacent to school playgrounds and competitive nonprofessional sports facilities; as well as more generalized parklands.

F. Land and areas for the construction of indoor facilities and related support and infrastructure facilities.

G. Permanent recreation use easements or similar devices which will insure the desired public access, use and permanent recreation dedication.

H. Dedication of publicly owned non-parkland may be considered acquisition if the land has never been dedicated, platted, managed, or acquired for public park and recreation use.

2. Activities Covered. Areas acquired may serve a wide variety of recreation activities including, but not limited to: driving and walking for pleasure, sightseeing, swimming and other water sports, fishing, picnicking, nature study, boating, camping, horseback riding, bicycling, and other sports and activities.

3. Acquisition of Structures. Acquisition projects may include structures and impoundments which: (a) are to be used primarily for recreation or recreation support activities or (b) are a part of the recreation area to be acquired, and are to be removed or demolished or drained in the case of impoundments (see Chapter 675.2 for methods of evaluation).

4. Means of Acquisition. Acquisition of lands and waters, or interests therein may be accomplished through purchase, eminent domain, transfer, by gift, or by mandatory dedication.

5. Reservations and Rights Not Acquired. Reservations and rights held by others are permissible only if it is determined that the recreation purposes and environment would not be significantly affected. The project sponsor shall list all outstanding rights or interests held by others and display them on the project boundary map [see Chapter 660.2.5]. Further, the environmental information submitted to the Department on the project must explain how these outstanding rights are to be dealt with to assure that the recreation interests and the environment will not be affected significantly (see Chapter 650.2).

6. Acquisition for Delayed Development.

A. Program assistance may be available to acquire property for which the development of recreation facilities is planned at a future date. In the interim between acquisition and development the property should be open for those public recreation purposes which the land is capable of supporting or which can be achieved with a minimum public investment. Non-recreation uses such as agriculture occurring on the property at the time of acquisition may continue for up to 3 years, contingent upon approval by the Department. In this case the project sponsor shall not receive payment on the project until the non-recreation use is terminated.

B. If development will be delayed for more than two years from the date of acquisition, the project sponsor shall include the following information in the project application:

- (1) Why immediate acquisition of the property is necessary.
- (2) What facilities will be developed and when such development will occur.
- (3) What, if any, non-recreation uses will be continued on the property and when such non-recreation uses will be terminated.
- (4) The type of public recreation access that will be provided during the interim period.

(5)

7. Acquisition Which Will Not Be Assisted.

A. Acquisition of historic sites and structures. Exceptions may be made only when it is demonstrated clearly that the acquisition is primarily for recreation purposes and that the historic aspects are a corollary to the primary recreation purposes. This exclusion need not prevent the consideration of projects calling for acquisition of real property interests contiguous to or near historic sites and structures which meet priority recreation needs. Compliance with the Texas Antiquities Code - Revised August 30, 1995 is required for all acquisitions (see Chapter 650.4.).

B. Acquisition of museums and sites to be used for museums or primarily for archeological excavations.

C. Acquisition of land to help meet a public school's minimum site size requirement, as established by state or local regulations will not receive program assistance.

D. Acquisition of areas and facilities designed to be used primarily for semi-professional and professional arts and athletics.

E. Acquisition of areas and facilities to be used solely for game refuges or fish production purposes. However, such areas and facilities may be eligible if they will be open to the public for general compatible recreation, or if they directly serve priority public recreation needs.

F. Acquisition of railroad "hardware", trestles, stations, yards, and the like, if such are to be used for the commercial operation of railroad trains.

G. Acquisition of sites containing luxury lodges, motels, cabins, and similar elaborate facilities which are to be operated by the sponsor or a concessionaire to serve the public with food and sleeping quarters.

H. Agricultural land primarily for agricultural purposes.

I. Areas for which the primary purpose of the acquisition is for non-recreational uses such as an area to be impounded or excavated to serve as a future public water supply.

J. Lands already within the public domain which were either dedicated, platted, managed or acquired for park and recreation use.

8. Uniform Relocation and Acquisition. All acquisitions with program assistance must be made in accordance with the applicable provisions of Public Law 91-646, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

9. Acquisition Procedures. All acquisitions with program assistance must follow appraisal guidelines and acquisition procedures included in Chapter 675.2.

DEVELOPMENT CRITERIA

1. General. Financial assistance may be available to provide most facilities necessary for the use and enjoyment of recreation areas. Development projects may consist of basic recreation facilities to serve the general public provided that the funding of such a project is in the public interest, in accord with local planning, and endorsed by the applicable regional planning council. In addition, development projects are subject to all other conditions, policies, and regulations included in the Grants Manual.

2. Project Scope. A development project may consist of one improvement or a group of related improvements designed to provide basic facilities for recreation, including facilities for access, safety, health, and protection of the area, as well as those required for the use of the area. Furthermore, a project may consist of the complete or partial development of one area, such as a local park or a city playground, or it may consist of a series of developments on a number of geographically separated areas. In all cases, the project must be a logical unit of work to be accomplished in a specific time frame. Ineligible facilities to be funded through sources other than the grant program may be included in the development concept plan of a project, however; the development of such ineligible facilities on lands acquired and/or developed with program assistance will be allowed only if they do not constitute a conversion under Chapter 675.9.3.

Funding of development project proposals may cover construction, renovation, site planning, demolition, site preparation, architectural/professional services, and similar activities essential for the proper conduct of the project.

3. Design Criteria. Plans for the development of land and/or facilities should be based on the needs of the public, the expected use, and the type and character of the project area. Facilities should be attractive for public use and generally be consistent with the environment. Plans and specifications for the improvements/facilities should be in accord with established engineering and architectural practices. Emphasis should be given to the health and safety of users, accessibility to the general public, and the protection of the recreation and natural values of the area. All facilities developed with program assistance must be designed in conformance with the regulations issued by the Texas Department of Licensing & Regulation, under the Architectural Barriers Act, codified as Article 9102, Texas Civil Statutes, and the Americans with Disabilities Act of 1990 (PL 101-336).

4. Ownership and Control of Project Lands.

A. Fee Simple Title and Easements. Facilities may be developed on land and water owned in fee simple title by the

sponsor, or where ownership of less-than-simple fee interests, such as easements, provides permanent control of the property commensurate with the proposed development.

B. Leased Properties. No approval will be given for the development of facilities on leased land unless the following requirements are met:

- (1) The project site is leased from another public agency; and
- (2) The lease period is for 25 years or more for most projects, or 40 years or more for aquatic or indoor facilities; and
- (3) The lease is non-revocable; and
- (4) Leased facilities are operated free from discrimination, pursuant to program guidelines; and
- (5) Appropriate signage is posted informing the public when the facility is available for general use and when it is reserved/programmed for other uses.

5. Guidelines for Eligible Recreation Facilities. Development projects may include but are not limited to the following facility types:

A. Sports and Playfields. Including fields, courts and other spaces used in competitive and individual sports. Such as baseball, softball, soccer and football, tennis courts, playgrounds and tot lots, golf courses, archery ranges, rodeo arenas, running tracks, and other similar facilities (see 640.3.5.L. and 640.3.7.A.).

B. Picnic Facilities. Including tables, BBQ grills, fireplaces, shelters, and other facilities related to family or group picnic sites.

C. Trails. Including the development and marking of overlooks, turnouts and trails for nature walks, hiking, bicycling, horseback riding, exercising, motorized vehicles and other trail activities.

D. Swimming Facilities. Including swimming beaches, pools, wave pools, wading pools, spray pools, lifeguard towers, bathhouses and other similar facilities.

E. Boating Facilities. Including most facilities related to boating, sailing, canoeing, kayaking, sculling and other boating activities. Such facilities include, but are not limited to, docks, berths, floating berths secured by buoys or similar services, launching ramps, breakwaters, mechanical launching devices, boat lifts, boat storage, sewage pumpout facilities, fuel depots, water and sewer hookups, restrooms, showers, electricity and parking areas.

Motorized boating facilities, however, may only be considered for program assistance if the sponsor can certify that funds have been requested and denied through the State Boat Ramp Program and/or the State Pumpout Program.

Regardless of whether assistance is requested for motorized or non-motorized boating, assistance will not be provided for operational equipment such as buoys, ropes, life jackets, or boats.

F. Camping Facilities. Including tables, fireplaces, restrooms, information stations, snack bars, utility outlets and other facilities needed for camping by tent, trailer or camper. Cabins or group camps of simple austere design and accessible to the general public in an equitable manner are eligible. Group camps designated for specific groups or for which specific groups will be given priority access are not eligible. Lodges, motels and luxury cabins are not eligible.

G. Golf Courses. Including construction, irrigation, landscaping, roads, parking, utilities, moderate clubhouses and maintenance facilities, and cart paths.

H. Exhibit Facilities. Including exhibit or interpretive facilities that provide opportunities for the observation or interpretation of natural resources located on the recreation site or in its immediate surrounding areas. This includes small demonstration farms, arboretums, aquariums, nature exhibits, nature interpretive centers, kiosks, and other similar facilities. However, exhibit areas will not be assisted if they function primarily for academic, historic, economic, entertainment or other non-recreational purposes. This restriction includes convention facilities, commemorative exhibits, fairgrounds, archeological research sites, and other non-recreational facilities. The development of nature and geological interpretive facilities which go beyond interpreting the project site and its immediate surrounding area are not eligible.

I. Spectator Facilities. Including amphitheaters, bandstands and modest seating areas related to playfields and other eligible facilities, provided the facility is not designed primarily for professional or semiprofessional arts or athletics, nor intercollegiate or interscholastic sports. Some bleachers or other modest seating areas are encouraged to be incorporated where needed into eligible recreation facilities to serve the handicapped, elderly and other nonparticipant in the facility's major recreation activity. Seating shall not be expanded solely to provide capacity for a limited number of special events.

J. Community Gardens. Including land preparation, perimeter fencing, storage bins and sheds, irrigation systems, benches, walkways, parking areas, composting areas, and restrooms. Assistance is not available for fertilizer, seeds, tools, water hoses, nor gardens planned as commercial enterprises.

K. Renovated Facilities. Including extensive renovation or redevelopment to bring a facility up to standards of quality, safety, accessibility and attractiveness suitable for public use, if the facility or area has deteriorated to the point where its usefulness is impaired or outmoded, or where it needs to be upgraded to meet public health and safety laws or requirements. However, such renovation is not eligible if the facility's deterioration is due to inadequate maintenance during the reasonable life of the facility.

L. Handicapped Facilities. Including the adaptation of new or existing recreation facilities and support facilities for use by the handicapped (see Chapter 640.3.3.). However, recreation facilities to be used exclusively by the handicapped are not eligible unless such facilities are available to the general public or are part of a recreation area which serves the general public.

M. Indoor Facilities. Including athletic and sport facilities, arts and craft facilities, meeting rooms, stages, nature centers, exhibit and interpretive space, senior citizen centers, indoor recreation equipment, aquatic/swimming facilities, and exercise rooms. Indoor facilities will be funded only through the Indoor Recreation Grants Program, but are ineligible for LWCF assistance.

6. Guidelines for Eligible Support Facilities.

A. Public Use Facilities. Including support facilities needed by the public for recreation use of an area, such as roads, parking areas, utilities, sanitation systems, restroom buildings, visitor information centers, bathhouses, permanent spectator seating, walkways, concession stands, and equipment rental spaces. When appropriate, support facilities may be sheltered from the elements by providing a simple roof or cover. Informational materials and leaflets are not eligible.

B. Operation and Maintenance Facilities. Facilities that support the operation and maintenance of the recreation resource on which they are located are eligible, such as maintenance buildings, storage areas, administrative offices, dams, erosion control works, fences, sprinkler systems and directional signs. Regional and area-wide maintenance facilities are eligible provided the project sponsor agrees to include those park and recreation areas served by the maintenance facility in the scope of the project agreement and under the conversion provisions of Chapter 640.1.2. (see Chapter 675.9.3.). However, an employee's residence and its furnishings are not eligible.

C. Beautification. The beautification of a recreation area is eligible provided that it is not part of a regular maintenance program and if the site's condition is not due to inadequate maintenance. This includes landscaping to provide a more attractive environment; the clearing or restoration of areas which have been damaged by natural disasters; the screening, removal, relocation or burial of overhead power lines; the dredging and restoration of publicly owned recreation lakes or boat basins; and measures necessary to mitigate negative environmental impacts.

D. Indoor/Enclosed Facilities. Assistance for indoor recreation infrastructure and support facilities funded through the "Indoor Recreation Program" may include day care areas, kitchens and food preparation areas, locker rooms, rest rooms, parking lots, recreation center staff offices, and utilities. To be eligible, infrastructure and support facilities must be proposed as part of an eligible indoor recreation project and cannot be intended primarily for outdoor recreation use.

Sponsors who wish to enclose Land and Water Conservation Fund assisted outdoor facilities to increase public use may do so at this time at sponsor expense only. No program funds may be used for professional design services or for improvements which are necessary to make the facility suitable for conversion to indoor use.

E. Pro Rata Basis. Support facilities that exclusively serve ineligible facilities are not eligible. However, if support facilities will serve both eligible and ineligible facilities, as may be the case with roads and sewers, assistance may be provided on a pro rata basis for that portion of the support facility that will serve the eligible facilities, provided that the eligible facilities are subject to conversion provisions of Chapter 640.1.2.

F. Roads. Roads constructed outside the boundaries of the recreation area or park are not eligible for program assistance.

G. Equipment. Equipment required to make a recreation facility initially operational, and certain supplies and materials specifically required under State Health Department regulations may be eligible for assistance (see Chapter 670.3.4.D.).

H. Relation to Project Proposal. Development projects in new or previously undeveloped recreation areas may not consist solely of support facilities, unless they are required for proper and safe use of an area which does not require additional recreation facilities (such as construction or restrooms at a public nature study area), or unless necessary recreation facilities are being developed concurrently with the program assisted support facilities, or unless necessary recreation facilities will be developed within a reasonable period of time. In the latter two cases, the project agreement must include a provision that the non-program assisted recreation facilities are to be completed within a certain time frame agreeable to the Department and that if they are not, program monies will be refunded.

I. Energy Conservation Elements. The energy conservation elements of an eligible recreation facility and its support facilities are eligible for program assistance. This includes but is not limited to solar energy systems, earth berms, window shading devices, energy lock doors, sodium vapor lights, insulation, low flow water devices, water catchment systems, and other energy efficient design methods and materials. In addition, power systems which minimize or eliminate a facility's use of petroleum and natural gas are eligible including, but not limited to, windmills, on-site water power systems, bio-conversion systems, and facilities required for the conversion of existing power systems to coal, wood, or other energy efficient fuels.

J. Utilities. All utilities must be placed underground. Utilities constructed outside the boundaries of the recreation area or park are not eligible for program assistance.

7. Facility Location. Development projects may be located on lands and waters owned by or leased to the project sponsor (see Chapter 640.3.4.). In certain situations, however, the following conditions also apply:

A. Public School Grounds. Recreation areas and facilities for coordinated use by the general public and by public schools, including colleges and universities, are eligible for program assistance, provided such facilities are not part of the normal and usual program and responsibility of the educational and athletic program requirements of a school. This policy does not preclude exclusive school use of certain facilities such as athletic fields, tennis courts, swimming pools, etc. at certain times for instruction or competition provided there is adequate public use at other times. Stadiums are not eligible for program assistance. The grant application must include a schedule of the time the facility will be

available to the public. Additionally, adequate signs must be installed at the site, prior to final payment on the project, indicating when the recreation facilities are available to the general public.

B. Tourist Areas. Recreation and support facilities may be located in primary or potential tourist market areas, provided their primary purpose is for public recreation as opposed to entertainment or economic development, and provided they do not create unfair competition with the private sector.

C. Historic Sites. Recreation and support facilities may be located on historic sites or in conjunction with historic structures. This includes picnic areas, walkways and trails on a historic property as well as visitor centers oriented to the facilities and environment. However, the restoration or preservation of historic structures is not eligible. In all cases, the project must be in accord with the Texas Antiquities Code - Revised September 1, 1987 (see Chapter 650.4.).

8. Guidelines for Sheltered/Covered Outdoor Facilities.

For the purpose of the program, sheltered or covered facilities include those facilities which are generally open air, not fully enclosed, with a roof overhead. Sheltered or covered facilities are eligible for assistance and are not considered indoor facilities. The sheltering of play courts, picnic facilities, etc. is permissible under program guidelines.

9. Development Which Will Not Be Assisted.

Development projects which do not have a well defined objective are not eligible. Projects which do not directly contribute to public recreation activities are not eligible. Support facilities which are not directly related to public recreation are also not eligible. Projects for which the sponsor cannot demonstrate full legal control of the property proposed for development are not eligible for assistance. Generally, development assistance will not be made available for the following facilities:

A. Restoration/Preservation of Historic Structures. The restoration and renovation of historic structures are not eligible for grant assistance. Public recreation facilities and support facilities in conjunction with historical structures or sites may, however, be eligible for assistance when in accordance with the Texas Antiquities Code (Revised 9/1/87) if the development is adjacent to or on a site listed (or eligible to be listed) as a State Archeological Landmark.

B. Areas/Facilities To Be Used Primarily For Professional or Semiprofessional Arts and Athletics. Such as stadiums, amphitheaters, and rodeo arenas.

C. Amusement Facilities. Such as merry-go-rounds, Ferris wheels, miniature railroads, pioneer towns, convention facilities, and commemorative exhibits.

D. Employee Residences and Furnishings.

E. Construction/Renovation of Lodges, Motels or Luxury Cabins.

F. Support Facilities for Non-eligible Facilities. If the support facility will serve both eligible and non-eligible facilities, assistance may be provided on a pro-rated basis for that portion of the facility which will support the public recreation activities.

G. Marinas and Related Support Facilities.

H. Community College/University and Convention Facilities.

I. Parks and Recreation Department Offices or Headquarters.

J. Head Start Program and Health Clinics.

K. Golf and Tennis Pro-Shops.

L. Conservatory and Garden Centers.

M. Libraries and Recycling Centers.

N. Police and Fire Substations.

O. Visitor Information Centers and Chamber of Commerce Offices.

P. Some facilities which are not eligible for grant assistance may be constructed in a fund assisted area if they are compatible with the public recreation uses of the area. Department approval must be received prior to the development of non-recreational facilities within program assisted areas. Questions regarding eligibility should be directed to the Department.

CRITERIA FOR COMMUNITY OUTDOOR OUTREACH PROGRAM PROJECTS

1. **Purpose.** The Texas Parks & Wildlife Code authorizes the Department to provide financial assistance to local governments and non-profit organizations for recreation, conservation, or education programs for underserved populations to encourage and implement increased access to and use of parks, recreational areas, cultural resource sites or areas, and open space areas by underserved populations.

2. **Project Proposals.** The Department has the initial prerogative and responsibility for determining the scope involved in a project proposal. A project may be designed as follows:

A. An outdoor recreation program which involves the Department's programs or facilities, or

B. An outdoor educational program with curriculum involving the Department's programs or facilities, or

C. An outdoor outreach activity that involves the Department's programs or facilities.

3. **Types of Projects.**

A. **Outdoor Education.**

B. **Outdoor Recreation.**

C. **Wildlife/Nature/Environmental Education.**

D. **Outdoor Recreational Safety.**

4. **Assistance from Other Agencies.** Project proposals submitted to the Department for program assistance may also be submitted to other agencies or foundations for aid. Although no matching funds are required for the CO-OP programs, financial assistance from other agencies and foundations may be used towards the sponsor's contribution to the project.

GENERAL COMPLIANCE

All projects must comply with applicable federal and state statutes, regulatory requirements and policies (as updated) including but not limited to:

1. The National Environmental Policy Act of 1969, as amended (P.L. 91-190, 42 U.S.C. 4321 et. seq.) (see Chapter 650.2.).
2. The Clean Air Act, as amended (42 U.S.C. 7609) (See Chapter 660.5.3.H.).
3. The Clean Water Act (33 U.S.C. Secs. 1288, 1314, 1341, 1342, 1344) (See Chapter 660.5.3.H.).
4. Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).
5. Executive Order 11288, concerning prevention, control and abatement of water pollution (see Chapter 660.5.3.H.).
6. The Flood Disaster Protection Act of 1973 (12 U.S.C. Sec. 24, 1701-1 Supp.) (42 U.S.C. Sec. 4001 et. seq.) (see Chapter 650.6.).
7. Executive Order 11988, Floodplain Management (see Chapter 650.7 and Chapter 660.5.3.I.).
8. Federal Act for Protection and Restoration of Estuarine Areas (P.L. 90-454).
9. Wild and Scenic Rivers Act of 1968 (P.L. 90-542) (16.U.S.C.1274 et. seq.).
10. Coastal Zone Management Act of 1972 (P.L. 92-583) (16 U.S.C. Sec. 1451, 1456) (see Chapter 660.53.P.).
11. The Rivers and Harbor Act of 1899 (33 U.S.C. Sec. 401 et. seq.).
12. Executive Order 11990, Protection of Wetlands (see Chapter 650.7. and Chapter 660.5.3.I.).
13. The Fish and Wildlife Coordination Act (16 U.S.C. Sec. 661, 662).
14. The Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et. seq.) (see Chapter 660.5. and Chapter 660.5.3.J.).
15. The Texas Antiquities Code - Revised August 30, 1995 (see Chapter 650.4).
16. Americans with Disabilities Act of 1990 (PL 101-336).
17. Texas Architectural Barriers Act (Codified as Article 9102, Texas Civil Statutes) (see Chapter 640.3.3.).
18. Title VI of the Civil Rights Act of 1964 (P.L. 88-352, 42 U.S.C. Secs. 2000d to 2000d-4) (see Chapter 650.9).
19. Uniform Grant Management Standards developed under the authority of Chapter 783 of the Texas Government Code, which codifies the Uniform Grant and Contract Management Standards Act of 1981. (See Chapter 670.1).
20. Office of Management and Budget Circular A-87. Identifies cost principles applicable to grants and contracts as they relate to the application, acceptance and use of state funds (see Chapter 670.3).
21. Office of Management and Budget Circular A-133. (See Chapter 675.7).
22. Emergency Wetlands Resources Act of 1986 (P.L. 99-645).
23. Texas Review and Comment System (TRACS) (see Chapter 660.5.3.A.).
24. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. (See Chapter 675.2.).
25. Other applicable statutes, executive orders and regulations as may be promulgated or updated from time to time.

ENVIRONMENTAL COMPLIANCE (NEPA) GENERAL COMPLIANCE

1. Environmental Compliance. Policy concerning the assessment of the environmental impact of federal and federally funded actions is contained in the National Environmental Policy Act of 1969 (NEPA) (Public Law 91-190, as amended; 82 Stat. 852, as amended; 42 U.S.C. 4321-4347).

All program actions are subject to the provisions of NEPA and the Council on Environmental Quality Regulations For Implementing the Procedural Provisions of NEPA (CEQ Regulations 40 CFR 1500-1508). (Attachment 650.2C). Department policy for implementing NEPA and the CEQ Regulations appear in the Program Manual (Attachment 650.2A).

All program actions require the preparation of an environmental assessment (EA).

2. Sponsor Responsibility. As part of a grant application package, the sponsor must submit to the Department appropriate environmental documentation. The scope, content and objectivity of the document shall comply with NEPA, CEQ Regulations, and the Program Manual.

3. Environmental Assessments (EA).

A. An EA should cover the points listed in 650.2.3.B below in sufficient detail to resolve the test of "major and significant" (CEQ Regulations, Section 1508.18 and 1508.27) and provide a basis for deciding whether to prepare an environmental impact statement (EIS) on the project. Such assessments generally need be no more than two or three pages in length, except when complex projects are involved.

An EA should not be prepared if the need for an EIS is self-evident.

B. Format and Content. Pertinent information of sufficient scope and depth must be provided in an EA to allow the Department to accurately ascertain the impact of the project and to determine whether an EIS is needed. Whenever possible, an environmental impact should be quantified. In all cases the level of activities involved should be given (number of trees to be removed, cubic yards of debris to be removed, cubic yards of fill to be required, etc.). For projects with property rights outstanding, the environmental information must also explain how the sponsor plans to assure that the environment will not be significantly affected. An EA should cover the following points:

(1) Description of the Proposed Project. This section should include a brief description of all elements of the project for which assistance is requested, and how the project elements will be carried out.

(2) Description of the Site and Environment. The actual project site(s) and surrounding area(s) should be described in this section. Information regarding vegetation, topography, water resources, access, outstanding characteristics, existing structures and improvements, utilities and easements, surrounding land uses, current property ownership, etc., should be addressed. If the project site(s) contain threatened or endangered species of flora or fauna, significant mineral values, unique geologic formations, unique animal or plant ecosystems, proposed dedication of open space, wetlands, or natural area, or cultural/archeological/historical sites, they should be addressed.

Illustrations, graphics, photographs, etc., regarding elements addressed in this section should be included.

(3) Floodplain and Wetland Documentation. This documentation is only necessary if a project involves a floodplain or wetland area, pursuant to Executive Orders 11988 and 11990. There are no exemptions from this documentation.

The following documentation should be included in the EA:

(a) Public Notification. The sponsor must inform the public that the project will be located in a floodplain/wetland area, and that the project will have certain environmental impacts on the floodplain/wetland area. A public hearing must be held to allow public comment, application materials and plans must be available for public review, and copies of the published notice and public comments must be included with the application for program assistance.

(b) Supplemental Information to the EA. The following information on the floodplain or wetland area must be included:

(1) The extent of direct and indirect impacts of the project on the floodplain/wetland area;

(2) Measures to be taken to minimize harm to lives and property, and to the natural and beneficial floodplain/wetland values;

(3) Alternative actions and locations considered in the event of an adverse impact of the project;

(4) Assurances that all state, federal, and local floodplain/wetland regulations are being met;

(5) A map delineating the floodplain/wetland area as it applies to the project.

(4) Environmental Impacts of the Proposed Project. This section should identify effects, or impacts, which are anticipated to result from the proposed project. Short and long term impacts, plus off-site impacts on land uses, fish and wildlife, vegetation, geology, soils and mineral resources, air and water quality, water resources/hydrology, cultural resources, transportation and access to the site, consumption of energy resources, socio-economic effects, etc., should be considered and addressed. State whether impacts will be beneficial or adverse.

"Impacts" are defined as causing direct or indirect changes in the existing environment, whether beneficial or adverse, which are anticipated as a result of the proposed action or related future actions. To the extent appropriate, the document should discuss impacts of the action, including environmental damage which could be caused by users, upon the physical and biological environment as well as upon cultural, aesthetic, and socio-economic conditions. Elements of impacts which are unknown or only partially understood should be indicated.

(5) Mitigating Measures for Adverse Impacts. Adverse impacts can have either short or long-term effects and should be so identified in this section. For those impacts considered "adverse" and caused as a result of the project, explain how they will be mitigated, eliminated or minimized. "Adverse" impacts which cannot be mitigated should be addressed in the next section.

(6) Unavoidable Adverse Impacts. Adverse impacts which cannot be mitigated or eliminated should be addressed in this section. The effects should be weighed against the beneficial impacts of the project.

(7) Alternatives to the Project. This section will include a brief description of alternatives as required by NEPA Section 102(2)(E), which states:

Study, develop, and describe appropriate alternatives to recommend courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources.

The environmental impacts of the proposal and the alternatives should be presented in comparative form and should define the issues, pros and cons, of a reasonable

range of alternatives, and provide a clear basis for choice between them by the Department and the public.

(8) A listing of agencies and persons consulted.

C. Points to Keep in Mind:

(1) Environmental documentation should be free of project justification and personal bias. The project should be justified elsewhere in the grant application.

(2) Do not rely on generalities. Specific facts are essential. All statements and conclusions should be supported, and quantified where possible.

(3) Use graphics to help explain the project.

(4) Be concise, clear and to the point.

(5) Adverse impacts should be addressed as fairly as beneficial impacts.

4. Finding of No Significant Impact (FONSI). If the Department, after reviewing the environmental assessment, determines that the proposed project will not have a significant effect on the quality of the human environment and that an EIS is therefore unnecessary, no further environmental documentation will be required from the sponsor unless the application review process documents additional biological documentation requirements.

5. Guidelines to Determine When an Environmental Impact Statement Should Be Prepared. The Department will require sufficient environmental data from the sponsor to prepare an EIS on a proposed project deemed to be a major action having a significant impact on the physical, biological, and/or socio-economic environment of the project site and/or surrounding area. Cumulative impacts and/or subsequent actions must be considered in environmental data submitted.

A. Factors to Consider. The occurrence of one or more of the following factors indicates that an EIS may be needed:

(1) Marshes, or wetlands, unique animal or plant ecosystems, lakes, streams, or marine areas are affected significantly.

(2) The proposed project would or might result in major natural or physical changes, including interrelated social and economic changes and residential and land use changes, within the project area or its immediate environs.

(3) An archeological or historical site identified as a State Archeological Landmark, or eligible for SAL listing would

be subjected to significant adverse affects by the proposed project. The procedures to follow for such a site are covered in Chapter 650.4.

(4) Highly controversial issues involving the environmental effects of the project exist or are expected.

(5) The project site contains threatened or endangered species of flora or fauna, significant mineral values, or a unique geologic formation.

(6) Actions which foreclose other beneficial uses of mineral, agricultural, timber, water, energy, or transportation resources critical to the nation's or a state's welfare.

The Department may determine that a proposed project, even though not involving any of the above factors, requires preparation of an EIS.

6. Adoption of Previous Statement. In accordance with 40 CFR 1506.3, an EIS prepared for another grant program not administered by the Department may be adopted by the Department if it is adequate to meet the requirements of a proposed program action.

ENVIRONMENTAL POLICY
TEXAS PARKS & WILDLIFE COMMISSION POLICY NO. A-8
January 24, 1991

Be it resolved and enacted by the Commission:

1. Purpose.

In recognition of the statutory responsibility of the Texas Parks and Wildlife Commission (hereinafter referred to as the Commission) and the Texas Parks and Wildlife Department (hereinafter referred to as the Department) to protect, conserve, manage and interpret the state's fish and wildlife resources, aquatic, marine, and terrestrial plant and animal life, and in recognition of the need to ensure that human activity is conducted in a manner that minimizes adverse impacts on these resources, the Commission hereby establishes the following environmental policy and the guidelines for implementation of that policy.

2. General Policy.

It shall be the policy of the Commission that the Department's activities be conducted and facilities managed to protect, conserve, and provide for the wise use and enjoyment of the resources for which the Department is responsible. Department activities shall be conducted and facilities shall be managed by sound principles of natural resource management. Consistent with this policy, maintaining Texas' unique biodiversity by management and conservation shall be one of the goals of the Department. Further, the Department shall serve as a model of compliance with the letter and spirit of environmental laws and regulations.

3. Protection, Conservation and Management of Fish and Wildlife Resources.

Protection, conservation and management of Texas' biodiversity is hereby established as a purpose of Department activities and facilities management. Department activities and facilities shall be conducted and managed to provide, to the maximum extent consistent with other Department objectives and legal obligations, for the protection of biodiversity. Activities and management shall include measures for both the protection and conservation of natural communities. Where human impacts have resulted in a loss of biodiversity, measures to reclaim that diversity shall be implemented if feasible and consistent with other Department goals.

4. Toxic and Hazardous Substances.

Use of toxic or hazardous substances, including pesticides and herbicides, shall be minimized in all Department activities and at all Department facilities. Existing supplies of toxic and hazardous substances, if in excess of reasonably foreseeable needs, shall be reduced as expeditiously as legally and financially possible. Alternatives to the use of those substances shall be considered and adopted wherever practicable and feasible. Where alternatives are not available or practicable, the use of those substances shall be kept to the minimum necessary to accomplish each task. Use of those substances shall be undertaken only by personnel trained in their use, only with equipment appropriate for use of the substance, and in full compliance with applicable law.

5. Energy and Material Use.

In recognition that wise use of resources, including water and energy, is essential to the implementation of this policy, the Department shall implement resource conservation measures in its activities and at its facilities. Those measures shall include, to the maximum extent feasible and consistent with Department objectives, the use of water saving devices and practices; the use of energy efficient appliances, equipment and practices; the minimization of waste; the use of alternative energy sources; the use of recycled materials; and the implementation of recycling programs.

6. Public Information.

In order to encourage public awareness of conservation principles, the Department shall provide informational materials and programs describing the Department's conservation activities and the importance thereof. The Executive Director shall implement programs designed to educate the public about the value and importance of natural communities, biodiversity, ecological principles, and natural resource management.

7. Environmental Review and Audit.

An environmental review process will be implemented to encompass permits and grant applications received and submitted by the Department, major planning and management initiatives developed by the Department, major construction and renovation projects undertaken by the Department, and any Department activity potentially affecting endangered resources. Resource Protection Division, through an interdivisional committee, shall develop the review process to ensure that Department actions are consistent with this policy and with recommendations made by the Department on projects proposed by other regulated entities.

The Executive Director shall also consider the development of periodic environmental audits for all Department programs and activities. Such audits should assess compliance with this policy and with all applicable federal, state, and local environmental laws and regulations. The results of such audits shall be periodically reported to the Commission.

The Executive Director is specifically directed to institute measures to ensure accountability for compliance with this policy and to implement an interdivisional review procedure to assure that Department actions and recommendations are consistent and in compliance with existing environmental laws and regulations.

8. For the Purpose of this Policy The Following Definitions Apply.

Biodiversity means the variety of life and its processes, including all life forms from one-celled organisms to complex organisms such as insects, plants, birds, reptiles, amphibians, fish, mammals and the processes, pathways and cycles that link such organisms into natural communities.

Conserve means planning the management of natural resources on a continuing basis to prevent waste, degradation, or neglect, as well as promoting the wise use of natural resources.

Endangered resources means all species listed by the Department as Endangered or Threatened Species.

Facilities management means the planning, design, construction, operation, maintenance, and repair of Department facilities.

Interpret means the conveyance of facts and ideas in order to foster awareness and appreciation of relationships, significance, and value of resources.

Natural communities means an assemblage of organisms indigenous to an area which is characterized by a distinct combination of species occupying common ecological zones and interacting with one another.

CULTURAL, ARCHEOLOGICAL AND HISTORIC PRESERVATION

1. General. The purpose of this Chapter is to provide guidance on the implementation of the Texas Antiquities Code as it pertains to cultural resources (see Attachment 650.4A).

The Department and the Texas Antiquities Committee (TAC) are jointly responsible to institute procedures to assure that program assisted projects are carried out in a manner consistent with state goals relative to the preservation and enhancement of sites, structures, and objects of historical, architectural or archeological significance. Section 191.051 of the Texas Antiquities Code requires TAC to determine whether program assisted projects affect properties listed as State Archeological Landmarks (SAL) or if they are eligible for listing as an SAL, and, where there is an effect, to allow TAC a reasonable opportunity to comment on the proposed undertaking.

2. Definitions.

A. Area of Impact. The area for which program assistance is proposed.

B. Cultural Resources. Any district, site, building, structure, or object significant in American history, architecture, archeology, engineering or culture at the national, state or local level.

C. Data or Resource Recovery. As used here, this means the systematic removal of the scientific, prehistoric, historic, and/or archeological information that provides an historic property with its research or data value. Data recovery may include a limited preliminary survey of the historic property or properties to be affected for purposes of research planning, the development of specific plans for research activities, or may include extensive excavation, relocation, preparation of notes and records, and other forms of physical removal of data and the material that contains data, protection of such data and material, analysis of such data and material, preparation of reports on such data and material, and dissemination of reports and other products of the research. Examples of data recovery include archeological research producing monographs, descriptive, and theoretical articles, study collections of artifacts and other materials; architectural or engineering studies resulting in measured drawings, photogrammetry, or photography; historic or anthropological studies of recent or living human populations relevant to the understanding of historic properties; and relocation of properties whose data value can best be preserved by so doing.

D. Mitigation. Any action which reduces or eliminates adverse impacts resulting from a project. Mitigation may include project redesign or relocation, data recovery and documentation, etc.

E. NEPA Process. The process for the consideration of environmental impacts during project planning. This may include the preparation of an environmental assessment or Environmental Impact Statement, pursuant to the National Environmental Policy Act of 1969, as amended.

F. Properties Eligible for Listing as a State Archeological Landmark (SAL). Any property determined by the TAC as being eligible for listing as a State Archeological Landmark, or any property which is not so determined but which may meet the criteria for listing as a SAL.

G. Texas Antiquities Committee (TAC). The state agency for the identification and protection of cultural resources, pursuant to the Texas Antiquities Code.

3. Timing.

A. General. The provisions of this Chapter shall apply to the areas of impact within active and proposed program assisted projects. The procedures contained within this Chapter shall be incorporated and carried out as an integral component of the program review process. The Department and sponsors are responsible for carrying out these procedures as early as possible during project formulation stages and prior to the execution of a grant project agreement in order to ensure that cultural resources are considered in project planning and so that unnecessary delays are avoided.

B. Development Projects. Compliance with this Chapter must be complete prior to the execution of a grant contract agreement with the Department.

C. Acquisition Projects. Compliance with this chapter must be complete prior to the commencement of any development or demolition activities. Whenever possible, the sponsor shall comply with these procedures prior to undertaking any program assisted acquisition by utilizing one of the following options:

(1) Prior to final acquisition billing or the commencement of development if it precedes the final acquisition billing, the sponsor shall comply with the procedures of this Chapter within the area of impact. Necessary compliance will be eligible for program assistance with the exception of mitigation costs.

(2) Alternatively, the sponsor may defer compliance until after final acquisition billing but prior to actual development.

At such time, the sponsor shall comply with the procedures of this Chapter within the proposed project's area of impact. In this instance, compliance expenditures will not receive program assistance unless the development occurs as part of an approved project.

D. Assurance. By submitting a project application the sponsor is making the following assurance:

The Department shall assist the sponsor in its compliance with the Texas Antiquities Code by (a) consulting with the TAC on the conduct of any necessary investigations to identify properties listed as a SAL or eligible for listing as a SAL are within the proposed area of impact of the proposed action, to require the sponsor to conduct such investigations and to notify the Department and TAC of the existence of any such properties, and by (b) complying with all requirements established by the state to avoid or mitigate adverse effects upon such properties.

E. Interim Use. Until such time as compliance with this Chapter is completed, project sponsors will assure the protection of cultural resources on lands under their control acquired or proposed for development with program assistance. Interim use may include only non-land disturbing activities or the replacement or renovation of existing structures which do not meet SAL criteria. Failure to protect cultural resources constitutes grounds for denial of program assistance.

4. Cost Sharing.

A. Acquisition Projects. Cost for mitigation actions related to an acquisition project shall not be eligible for program assistance. All other costs incurred as a result of compliance with this Chapter, including pre-agreement costs of undertaking identification and evaluation measures, are eligible project costs and may be reimbursable in accordance with Chapter 670.3. and Chapter 650.4.3. of this Manual.

B. Development Projects.

(1) All costs incurred as a result of compliance with this Chapter which do not involve costs for mitigation are eligible project costs and may be reimbursable in accordance with Chapter 670 and Chapter 650.4.3.C. of this Manual.

(2) Costs incurred for mitigation undertaken as a result of compliance or mitigation for resources discovered during project development may be reimbursable through the program on a 50-50 matching basis provided that sufficient and timely funding is available. Mitigation, whether program assisted or not, shall be the responsibility of the sponsor and shall be conducted in a manner consistent with TAC

guidelines for recovery of scientific data. Since destruction of cultural resources constitutes an irreplaceable loss, failure to provide for necessary mitigation constitutes grounds for denial of program assistance.

5. Compliance Procedures.

A. Department and TAC Responsibility. The Department, in consultation with the TAC, is responsible for determining whether a project proposed for program assistance will affect a SAL property or a property that is eligible for SAL listing.

B. Sponsor Responsibility. It shall be the responsibility of the sponsor to implement, or cause to be implemented, the provisions of this Chapter on behalf of and with the concurrence of the Department.

C. Identification of State Archeological Landmarks and Eligible Properties. The sponsor shall identify or cause to be identified, any SAL or eligible property located within the area of impact of a project proposed for program assistance, and which may be affected by the proposed project.

D. Protection of State Archeological Landmarks and Eligible Properties. Projects which will have adverse effects on known or potentially eligible SAL properties will not be eligible for program assistance at the proposed site(s) until a plan to mitigate such adverse effects is approved by the TAC, in consultation with the Department. Failure by the sponsor to carry out an approved mitigation plan is grounds for suspension or cancellation of program assistance, until satisfactory compliance and assurances are realized. If satisfactory compliance and assurances are not received from the sponsor, program funds which have been reimbursed to the sponsor shall be refunded to the Department for deposit back into the Account.

6. Resources Discovered During Construction. If cultural resources are discovered during project construction on lands acquired or being developed with program assistance, the sponsor shall take the following actions:

A. The project sponsor shall suspend construction activities which may affect the resources and immediately notify the Department and TAC.

B. Further guidance shall be provided by the TAC and no construction activities may resume until written authorization is received from TAC and the Department.

7. Data Recovery. When it is determined that the project will have an adverse effect on a SAL property or a property eligible for listing as a SAL, all feasible and practicable alternatives to avoid or beneficially incorporate the cultural resources into the project should be considered. If TAC, in consultation with the Department, determines there is no alternative but to recover the scientific, prehistoric, historical or archeological data, such recovery shall be conducted in accordance with the Texas Antiquities Code. Data recovery costs may receive program assistance if funds are budgeted in an approved project, in accordance with Chapter 650.4.4.

8. Categorical Exclusions. Development projects which entail only the replacement, renovation or rehabilitation of existing facilities when such facilities do not meet the criteria for listing as a SAL, and when such facilities will not be relocated or enlarged in area dimensions, are exempted from compliance with the requirements of this Chapter.

9. Destruction of Cultural Resources Prohibited. Destruction of any site or property on or eligible for listing as a SAL prior to or in anticipation of applying for program assistance shall constitute grounds for denial of program assistance.

THE ANTIQUITIES CODE OF TEXAS
(Revised September 1, 1987)

DEPARTMENT OF ANTIQUITIES PROTECTION
TEXAS HISTORICAL COMMISSION
P.O. BOX 12276 - AUSTIN, TEXAS 78711

The Antiquities Code of Texas was established by Senate Bill No. 58, Chapter 442, Government Code of Texas, and was redefined as the Texas Natural Resource Code of 1977, a formal revision of the statutes relating to the public domain. Title 9, Chapter 191 of the Natural Resource Code pertains to the Antiquities Committee. Further revisions to the Antiquities Code were added in the Sunset Review process as reflected in Senate Bill 231 enacted by the legislature in 1983, and in House Bill 2056 in 1987.

The nine-member Antiquities Committee is the legal custodian of all cultural resources, historic and prehistoric, within the public domain of the State of Texas. Such diverse resources as historic buildings, ship wrecks, and aboriginal campsites fall within the jurisdiction of the Committee. These sites may be designated as State Archeological Landmarks by the Committee.

Permits to conduct archeological investigation of cultural resources are granted to qualified individuals and institutions who demonstrate the capability and willingness to obtain the maximum scientific archeological and educational information from such investigation. In addition, materials recovered from such investigations must be properly stored and made available to the public for study.

For additional information concerning permits and copies of the General Rules of Practice and Procedure, contact the Department of Antiquities Protection, Texas Historical Commission, P.O. Box 12276, Austin, TX 78711, 512/463-6096.

NATIONAL FLOOD INSURANCE PROGRAM

1. Scope. The Flood Disaster Protection Act of 1973 (P.L. 93-234) requires the purchase of flood insurance as a condition of receiving any federal financial assistance for acquisition or construction purposes in special flood hazard areas located in any community currently participating in the National Flood Insurance Program authorized by the National Flood Insurance Act of 1968. These special flood hazard areas are identified by the Flood Insurance Administration of the Federal Emergency Management Agency. For the purpose of the local park grants programs, the Flood Disaster Protection Act of 1973 applies.

2. Improvements Eligible for Flood Insurance Coverage.

A. Definitions. For the purposes of the National Flood Insurance Program, the term "financial assistance for acquisition or construction purposes" means any form of financial assistance which is intended in whole or in part for the acquisition, construction, reconstruction, repair or improvement of any publicly or privately owned building or mobile home, and for any machinery, equipment, fixtures, and furnishings contained or to be contained therein. The terms "building" and "mobile home" are further defined as any walled and roofed structure that is principally above ground and affixed to a permanent site. Structures and their contents which meet these definitions are referred to as insurable improvements in this chapter.

B. Examples of insurable improvements for which insurance is required include, but are not limited to the following:

- (1) Restroom facilities.
- (2) Administrative buildings.
- (3) Bathhouses.
- (4) Interpretive buildings.
- (5) Maintenance buildings and sheds for landscaping tools or other equipment.
- (6) Sheltered/covered facilities consisting of two or more walled sides and a roof.
- (7) Recreation and community centers.

C. Examples of improvements for which insurance is not required include, but are not limited to the following:

- (1) Open picnic shelters.

- (2) Permanently affixed outdoor play equipment such as swings and slides.
- (3) Sun shades.
- (4) Outdoor swimming pools.

3. Requirement for Flood Insurance.

A. Flood insurance will be required for insurable facilities located within special flood hazard areas for which the Federal Insurance Administration has issued a flood hazard boundary map or a flood insurance rate map. If the Federal Insurance Administration withdraws the applicable map(s) for a special flood hazard area for any reason, the insurance requirement is suspended for projects located in that special flood hazard area which are approved during the period the map(s) is (are) withdrawn.

B. Communities identified as having special flood hazard areas must qualify within one year of notification by the Flood Insurance Administration. If an identified community has not qualified for the program by the prescribed date, no financial assistance can be provided for acquisition or development of insurable improvements. Such assistance will remain unavailable until the community has qualified. Financial assistance for non-insurable acquisition or development or for projects outside of the special flood hazard areas is not affected by whether the community is qualified or not qualified for flood insurance.

After a community has qualified for the flood insurance program, financial assistance for acquisition or development of insurable improvements will be predicated upon purchase of flood insurance for those improvements by the project sponsor.

C. Flood insurance required by P.L. 93-234 must be carried on insurable improvements throughout their useful life.

4. Amount of Insurance.

A. The amount of insurance required by P.L. 93-234 is the lesser of (1) the development cost of the insurable improvement or (2) the maximum limit of coverage made available with respect to the particular type of facility under the National Flood Insurance Act of 1968. The amount is based on the total cost of the insurable improvement, not just the Federal share.

B. Whenever flood insurance is available to cover a facility during construction, the project sponsor will obtain such coverage as soon as the facility becomes insurable. Coverage is usually available as soon as construction progresses beyond the excavation phase.

FLOODPLAINS AND WETLANDS

1. General. Project sponsors must comply with the provisions of 44 CFR 6342 Section 2 on all proposals involving floodplains and wetlands.

A. All projects must comply with the intent of Executive Orders 11988, "Floodplain Management", and 11990, "Protection of Wetlands", and with the U.S. Water Resources Council's "Floodplain Management Guidelines for Implementing E.O. 11988" (43 FR 6030, February 10, 1978).

B. The ultimate authority for all sponsors in the floodplain management decision making process remains with the Department.

C. The environmental assessment for all development projects must state whether or not there will be an impact on floodplains or wetlands.

2. Development Projects. Direct or indirect program support of floodplain development or construction in wetlands shall be avoided when there is an adverse impact on the natural and beneficial values and practicable alternatives exist.

A. When activities must be carried out in a floodplain or wetland, the work must be done in a manner which, to the extent possible, will minimize harm to lives, property and floodplain values, and will restore and preserve the natural and beneficial values served by floodplains and wetlands.

B. Flood proofing of eligible structures shall be eligible for program assistance.

3. Acquisition. Acquisition projects for the future establishment of facilities which do not have long- or short-term adverse impacts associated with the occupancy or modification of floodplains or wetlands, nor direct or indirect support of floodplains or wetlands development are excluded from these guidelines. However, these guidelines do apply to acquisition projects for future development which may have the potential for resulting in such impacts or support.

4. Excluded Facilities. Certain types of recreation development often are consistent with the intent of the Executive Orders. These types of developments will be reviewed, and when it is found that they neither have long- or short-term adverse impacts associated with the occupancy or modification of floodplains or wetlands, nor do they directly or indirectly support floodplains or wetlands development, they are excluded from any further compliance with these guidelines. These are the following:

A. Scenic overlooks and trails.

B. Boating facilities excluding boat houses.

C. Picnic and camping facilities including appropriate sanitary and other support facilities needed to provide full

utilization of recreational developments, provided that flood resistance is a consideration in their design and construction.

D. Water sports facilities such as beaches (not excluded for wetlands).

E. Entrance, access and internal roads to existing parks (not excluded for wetlands).

F. Play courts (not excluded for wetlands).

G. Beautification of an existing recreation area, such as landscaping.

H. Parking lots for existing parks, sports and playfields, and playgrounds (not excluded for wetlands).

I. Wildlife observation stations and environmental education facilities, excluding buildings.

5. Environmental Documentation. The environmental documentation shall include:

A. The extent of the direct and indirect impacts associated with direct and indirect support of floodplain and wetlands development.

B. Measures to be taken to minimize harm to lives and property, and to the natural and beneficial floodplain values; and to restore and preserve the values served by floodplains and wetlands.

C. Alternative actions and locations considered in the event of an adverse impact.

D. Assurance that all state and local floodplain and wetlands regulations and standards are being met.

E. A map delineating the floodplain or wetlands.

6. Public Involvement. The project sponsor shall ensure that the general public has an opportunity for early review of the development plans or proposals for actions affecting floodplains or wetlands. In all cases a press notice will be published in the local media briefly describing the proposed action and urging members of the public to provide their views to the sponsor. It shall expressly state that the proposed site is in a floodplain or wetland.

7. TRACS Review. The project sponsor shall include a copy of the press notice and public comments received, the Notice of Intent and the proposed environmental assessment with the project information submitted to the state TRACS Review System (see Chapter 650.8.).

TEXAS REVIEW AND COMMENT SYSTEM (TRACS)

1. **Purpose.** In 1971, the state legislature designated the regional planning councils as the appropriate areawide planning organizations to provide review and comment on applications for federal assistance. It also gave regional councils the authority to review any state grants that have an areawide impact. Until 1984, the review and comment function was administered according to rules and procedures established by the federal government. Since 1984, however, review and comment has been conducted under the Texas Review and Comment System (TRACS).

2. **Primary Point of Contact.** Under TRACS, the 24 regional councils of government serve as the primary point of contact (or regional review agency) for gathering and disseminating local elected officials' comments on proposed federal or state development and on applications for federal and state assistance. The Governor's Office is the statewide review agency for TRACS and coordinates the state-regional review process with the federal government and the Department.

3. **Comment Period.** Project proposals must be submitted to the applicable regional council for TRACS review either prior to, or at the same time, the proposal is submitted to the Department for consideration. TRACS comments must be received by the Department prior to presentation to the Parks & Wildlife Commission for the final decision on funding or denial of a proposal.

TITLE VI GUIDELINES

1. General.

A. Authority. These guidelines are issued under the authority of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et. seq; Executive Order 11764; Department of Justice Regulations 28 CFR 42 and Department of Interior Regulations 43 CFR 17).

B. Purpose. (43 CFR 17.1; 28 CFR 42.401) These guidelines provide detailed information on the compliance requirements of Title VI of the Civil Rights Act of 1964 to the end that no person in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination with respect to state or federally assisted programs administered by the Texas Parks & Wildlife Department. Included in the guidelines are procedures for filing complaints and the responsibilities of the department and its grantees in attaining compliance with the Act.

C. Definitions. (43 CFR 17.12; 28 CFR 42.402)

(1) "Act" means the Civil Rights Act of 1964, and any guidelines, rules and regulations of the department effectuating Title VI of this Act.

(2) "Applicant" means a qualified sponsor which submits an application for program assistance.

(3) "Department" means the Texas Parks & Wildlife Department.

(4) "Director" means the Director of the Office for Equal Opportunity (OEO) of the Department.

(5) "State or Federal Financial Assistance" means 1) grants and loans of state or federal funds, 2) grants or donations of state or federal property and interests in property, 3) the detail of state or federal personnel 4) the sale or lease of, or the permission to use (on other than a casual or transient basis) state or federal property or any interest in such property without consideration or at a nominal consideration or at a consideration which is reduced for the purpose of assisting the recipient in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any state or federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

(6) "Primary Recipient" or "Grantee" means a local sponsor that is authorized to contract for program financial assistance for the purpose of carrying out a program of the Department.

(7) "Compliance Review".

(a) "Post-Award compliance review" means an on-site, comprehensive assessment of the Title VI compliance of a sponsor that has received state or federal financial assistance. Such reviews are designed to determine if programs and activities of the sponsor are administered and operated in compliance with the Act.

(b) "Follow-up compliance review" means a follow-up examination of specific aspects of a grantee's state or federally assisted program or activity to determine whether the grantee has resolved reported conditions of noncompliance.

(8) "Compliance Officer" means an Equal Opportunity Specialist assigned the responsibility of conducting Title VI Compliance Reviews.

(9) "Covered Employment" means employment practices covered by Title VI.

(10) "TPWD" means the Texas Parks & Wildlife Department.

D. Covered Employment. (43 CFR 17.3(6)(c); 28 CFR 42.409) Where employment practices directly affect services to beneficiaries under a state or federally assisted program to which these guidelines apply, that recipient's employment practices shall be subject to the nondiscrimination provisions of the Act. Enforcement of the Act with respect to covered employment practices shall not be superseded by state or local merit systems relating to such employment practices.

2. Compliance Responsibilities.

A. Department Responsibility. TPWD, as grantor of program assistance for recreational acquisition, development and programs has direct responsibility for assuring that local project sponsors are in compliance with the provisions of the Act.

TPWD shall execute its responsibility through:

(1) Establishing an open project selection process to allocate program assistance among applicants;

(2) Notifying OEO of any inconsistencies with Title VI having arisen from on-site facility reviews conducted by Department personnel; and

(3) Cooperating with OEO toward seeking a satisfactory resolution of any inconsistencies found, including efforts toward seeking voluntary compliance enforcement procedures.

(4) Assuring that each applicant is provided a copy of these guidelines.

B. Primary Recipient Responsibility. (43 CFR 17.4) (28 CFR 42.407) Local sponsors, as primary recipients of assistance, are responsible to give reasonable assurance that will comply with the requirements imposed by Title VI, including methods of administration which give reasonable assurance that any non-compliance will be corrected. This shall be accomplished through:

(1) Providing the State Civil Rights Agency or Authority (if it exists) the opportunity to comment upon applications submitted. If such an Agency or Authority does not exist, TPWD should be notified.

(2) Cooperating with TPWD and OEO toward seeking a satisfactory resolution of any inconsistencies found, including efforts toward seeking voluntary compliance and enforcement procedures.

APPLICATION, AGREEMENT & AMENDMENT PROCEDURES

1. General. This chapter deals with the procedures and requirements for submitting an application for program assistance and for contracting and amending approved projects.

2. Submission of Applications. Applications for program assistance will be accepted by the Department on dates as published in the individual application guides.

3. Application Procedures and Forms. Application procedures, instructions, forms, and scoring criteria may be found in the application guides, which are separate documents for each program.

4. Project Agreement Forms. A project agreement, which establishes the framework for accomplishing the project, will be negotiated between the Department and the sponsor for each project. Execution of the agreement by the Department constitutes its approval of the project.

The project agreement:

A. Sets forth the obligations assumed by the sponsor through its acceptance of program assistance, including the rules and regulations applicable to the conduct of a project, and any special terms and conditions to the project established by the Department and agreed to by the sponsor.

B. Obligates the Department to provide funds up to a designated amount for eligible costs incurred on the project on the basis of information and cost estimates contained in the application. This amount is the "support ceiling," and may vary as a percentage of total eligible costs.

C. Sets forth methods of costing, accounting, incurrence of costs, and similar matters.

D. The project agreement date (date signed by the Department) is the beginning of the project agreement period, unless the Department has granted for that project a waiver of its policy of not approving costs retroactively (see Chapter 670.1.4.B.). A termination date is included. The total project period (beginning with Commission approval) is normally three years, and cannot exceed four fiscal years, at which time grant funding expires.

E. Describes what is to be done and how it will be accomplished.

5. Dated Project Boundary Map. A dated project boundary map which clearly delineates the area to receive local park grants assistance and defines the area included under the conversion provisions of this Manual shall be a part of the Project Agreement (see Chapter 675.9.3). For multiple site projects, dated project boundary maps are required for each site.

A. Project Area. At a minimum, this area must be a viable public recreation area which is capable of being self-sustaining without reliance upon adjoining or additional areas not identified in the scope of the project. Except in unusual cases where it can be shown that a lesser unit is clearly a self-sustaining recreation resource, this area will be the park, open space, or recreation area being developed or added to. Exceptions will be made only in the case of larger parks where logical management units exist therein. In no case will the areas covered by Chapter 640.1.2. of the grants manual be less than that acquired with program assistance.

B. Requirements. The project boundary map and/or attachments thereto will identify:

(1) The sponsor name.

(2) The project title and number.

(3) The date of map preparation.

(4) The legal description of the project area sufficient to identify the lands to be afforded protection under the conversion provisions of the manual, including any parcels being acquired with program assistance.

(5) The area(s) under lease and lease expiration date, if applicable.

(6) All known outstanding rights and interests in the area held by others. Known easements, deed/lease restrictions, reversionary interests, etc. are to be included. Those outstanding rights and interests which, in the opinion of the Department, would not adversely impact the utility and viability of the recreation area if exercised and not intended to be included under the conversion provisions of the grants manual should be specifically identified (see Chapter 640.3.4.).

(7) Existing, proposed and future development (when known).

(8) Dedicated open space, wetlands or natural area.

C. Alteration to Project Area. Prior to the date of final billing for the project or project element, the Department and sponsor may mutually agree to alter the project area to provide for the most satisfactory unit intended to be administered under the conversion provisions of the Manual.

6. Amendments. An amendment form is required to alter the signed agreement. When the amendment is signed by the Department it becomes part of the agreement and supercedes it in the specified matters.

A. Amendments are required in the following situations:

- (1) To add, delete or revise a project element of a grant;
- (2) To revise the total program assistance;
- (3) To increase or decrease the acreage to be acquired;
- (4) To change the location of the project site;
- (5) To extend the project period;
- (6) To amend the project area due to a Chapter 640.1.2. conversion that involves off site replacement land, replacement at a later date, or a significant number of acres to be converted (see Chapter 675.9.3.C).

B. Documentation. The following items should be submitted by the sponsor to the Department when requesting an amendment:

- (1) Letter explaining the changed conditions and how they affect the project;
- (2) Environmental information in accord with Chapter 650.2. (required only for amendments which may have an effect on the environment and for site change requests);
- (3) If an amendment to the project agreement changes or adds to any information included in the initial project agreement, the sponsor shall prepare revised documents for those parts that are affected by the amendment.

C. Unexpended Balance. Amendments are not necessary to return an unexpended balance at the time of project completion to the Account.

OPEN PROJECT SELECTION PROCESS

1. Purpose. The purpose of this chapter is to establish requirements for program open project selection processes which will better assure equal opportunity for all eligible project sponsors and all sectors of the general public to participate in the benefits of the Grants Program and to enable the Department to affirmatively address and meet local priority recreation needs. Open project selection processes will perform two essential functions:

A. Establishment of public notification, application assistance and review systems that assure equitable opportunities for participation in grant funding by all potentially eligible applicants.

B. Provision of objective criteria and standards for grant selection that are explicitly based on local priority needs for public recreation. No grant may be made unless:

(1) There is a present or future need for the acquisition and development of the property for which the grant is requested or the use is proposed; and

(2) A written statement is obtained from the regional planning commission having jurisdiction of the area in which the property is to be acquired and developed, that they have reviewed the project according to the Texas Review and Comment System.

2. Goals. The open project selection process developed by the Department shall be designed to accomplish the following goals:

A. Provide for public knowledge of and participation in the formulation and application of the project selection process utilized by the Department in allocating program assistance.

B. Ensure that all potential local sponsors are aware of the availability of and process for obtaining program assistance, and provide opportunities for all eligible sponsors to submit applications and have them considered on an equitable basis.

C. Assure that the distribution of program assistance is accomplished in a non-discriminatory manner, especially with regard to minority populations, the elderly and the disabled, and ensure a fair and equitable evaluation of all applications for program assistance.

3. Requirements for an Open Project Selection Process.

A. **Priority Rating System.** The Department shall develop a priority rating system for selecting projects that ensures the fair and equitable evaluation of all projects and may include:

(1) Emphasis on project selection criteria that conform to priority needs identified by local sponsor planning processes.

(2) Public participation in the formulation of grant proposals at the project sponsor level.

(3) Need for accessibility of proposed projects, to the greatest extent practicable, to all segments of the public including minority and low income populations, and the elderly.

(4) Separate scoring systems shall be established for each grant program. Selection criteria will be developed, taking into account the unique nature and administrative features of each program.

B. **Open Project Selection Process.** The Department shall develop a project selection process which objectively evaluates and selects projects on the basis of quality and conformance with its priority rating system.

C. **Recurring Funding Cycle.** The Department shall have a regular funding cycle for receiving, evaluating and selecting project proposals. Program application deadlines are identified in the appropriate application guides.

PROJECT EVALUATION CRITERIA

1. Purpose of Evaluation. Applications for program assistance will be evaluated on the basis of how they help accomplish the purposes and meet the requirements of the Account and grants manual requirements. This evaluation includes a consideration of the project's technical adequacy, its financial soundness, and its relationship to the needs and priorities identified in the project priority scoring system.

2. Responsibilities. All projects submitted to the Department are evaluated to the extent that information may be available to the Department which specifically relates to the standards outlined in this chapter and other applicable program requirements. The Department will specifically review and determine that:

A. The environmental impact of the proposal does not warrant further evaluation nor the preparation of an Environmental Impact Statement.

B. The project area is adequately described in the project boundary map and represents an acceptable area to be covered by the provisions of Chapter 640.1.2. The Department will also review those known outstanding rights and interests held by others in the property which the sponsor has indicated are not to be included under the conversion provisions of Chapter 640.1.2. If the Department concurs with the sponsor's recommendation that those rights or interests, if and when exercised, would not impact the viability of the area for continued public recreation use, future actions arising pursuant to those rights or interests will not be considered within the purview of Chapter 640.1.2. provisions. All other rights and interests will be subject to the guidelines contained in Chapter 640.1.7. and the General Provisions.

3. Project Evaluation Criteria. The following criteria shall be used by the Department in selecting projects for program assistance:

A. Use to be Consistent With Local Needs.

(1) Projects should demonstrate a present or future need for the acquisition and development of the property for which the grant is requested or the use is proposed; and

(2) A written statement must be obtained from the regional planning commission having jurisdiction of the area in which the property is to be acquired and developed that the project is consistent with local needs.

B. Eligibility. Projects will conform to the eligibility guidelines for acquisition and development projects (see Chapter 640).

C. Coordination. The extent to which the project is coordinated with and related to other public services and activities, and other planning and programming activities at the local, state and federal levels will be considered. This will include compliance with TRACS review procedures (see Chapter 650.8.).

D. Sponsor History. The past history of the sponsor will be evaluated and considered when new grant funds are requested. The evaluation will include:

(1) Timely progression and procedural compliance on active grant projects with the Department; and

(2) Compliance at previously assisted grant sites.

E. Energy Conservation. All projects shall be designed, constructed, operated and maintained in an energy efficient manner.

(1) Power systems for heating, cooling, lighting and operation shall minimize or eliminate the facility's use of petroleum and natural gas through solar, wind, wood, coal or other power systems, to the extent possible.

F. National Environmental Protection Act (NEPA). The impacts, both positive and negative, of the project on the environment will be considered. This information shall be covered in the environmental information submitted by the sponsor (see Chapter 650.2.). On the basis of the environmental information and other information available to the Department, a determination will be made as to whether or not to prepare an environmental impact statement on the project in accordance with the National Environmental Policy Act of 1969 (Public Law 91-190) and other pertinent regulations. The final environmental impact statement and the comments pertaining thereto shall be considered by the Department in deciding whether or not to approve a project which the Department believes is a major state action significantly affecting the environment.

G. PROJECT DESIGN. Structures should be designed with sensitivity to the natural surroundings and developed areas should be landscaped to harmonize with the natural environment. Roads, trails and parking areas should be designed to blend and harmonize with existing surroundings. Unsightly areas should be screened from view.

(1) Noise. Exterior sources of noise, such as highways, airports, railways, or factories, should be considered in the acquisition of land and in the design and location of facilities. Steps should be taken to minimize the disturbing effects of noise by means of vegetative screening and the placement of facilities. The location of facilities, such as trails for trail bikes, shall take into account the effect of their noise on other recreation activities at the program assisted area. Operational noise should be taken into consideration in the purchase of apparatus and machinery.

(2) Utility Lines. Overhead utility lines constitute a major safety issue and detract from the natural quality of many recreation areas, and must be eliminated where possible. Sponsors will, therefore, be expected to:

(a) Take all reasonable steps to insure the burial, screening, or relocation of existing overhead lines at projects where such lines visibly intrude upon the site's character, or pose a safety hazard; and

(b) Insure that all new electric wires under 15 KV, and other utility wires (including telephone, speaker system, cable television, etc.) be placed underground. In no case shall mass recreation use areas (ballfields, sport courts, swimming, or picnicking facilities, etc.) be located under any utility wires.

The Department may exempt existing overhead utility lines and not require such lines to be removed, rerouted, or buried.

H. POLLUTION. The extent to which the project will affect the environment will be considered. The Department and the project sponsor must set an example by maintaining high standards for the preservation and enhancement of the environment. This includes the elimination and prevention of air and water pollution, and the protection and enhancement of natural beauty. The introduction of pollutants into the environment must be avoided. Particular attention should be given in project design to sewage effluent, contaminated water, discharge of chlorinated swimming pool water, burning dumps, garbage and solid waste disposal, runoff pollution of water sources, and the siltation of waters.

Development shall be designed and managed to minimize erosion and siltation. Fill, borrow pits, cuts, and other raw soil surface areas must be protected from erosion during development to the maximum practicable extent, and all disturbed areas must be restored to an attractive condition at the conclusion of development.

Development must comply with applicable federal, state, and/or local air and water quality standards.

I. Water Conservation. All projects shall be designed, constructed, operated and maintained to promote conservation, both quantity and quality, of affected water sources. Measures shall be included, where applicable, to conserve and maintain the health of aquatic and terrestrial systems, including springs, aquifers, wetlands, rivers, and bays, while promoting quality recreational systems.

J. Floodplains and Wetlands. All proposals involving floodplains and wetlands shall preserve and enhance the natural and beneficial values of such lands in accordance with Executive Orders 11988 and 11990. (see Chapter 650.7.). Proposed acquisition and development shall include all practical measures to minimize harm to floodplains and wetlands which may result from new construction or other uses of the properties. Practical alternatives to proposed actions which might adversely affect floodplains and wetlands shall be considered by the project sponsor as well as the impact of such alternatives on the use and quality of the recreation site. This shall be accomplished as part of the environmental review process (see Chapter 650.2.) and in conformance with 44 CFR 6342 (see Chapter 650.7.).

K. Endangered Species. The extent to which the project will affect any species of fish, wildlife, or plant which is designated as endangered or threatened under the Endangered Species Act of 1973 will be considered. It will be the sponsor's responsibility to obtain the information necessary for a review of the effect the proposed project has upon listed species or their habitat pursuant to guidelines established by the Department.

L. Cultural Resource Preservation. All projects shall comply with the Texas Antiquities Code as it pertains to cultural resources.

M. Flood Insurance. The purchasing of flood insurance for all insurable acquisition or development projects located in flood hazard areas of communities participating in the National Flood Insurance Program as required by the Flood Disaster Act of 1973 will be considered (see Chapter 650.6.).

N. Dredge, Fill and Impoundment. The effect of dredge, fill and impoundment operations on marshes, wetlands, estuarine areas, and other areas of unique wildlife or marine habitat will be considered. Proposals involving dredge and fill operations must be reviewed and evaluated by the U.S. Fish and Wildlife Service for the effects on marine and wildlife habitat. A permit from the appropriate federal agency (Corps of Engineers, Coast Guard, etc.) is required for development proposals involving any of the above activities in navigable waters prior to Department execution of an agreement for program assistance. Projects proposing impoundments of water must obtain all necessary federal, state and local permits prior to development.

O. Control and Tenure. The degree of control and tenure over areas to be acquired or developed will be considered. Reasonable assurances must be provided that conversion under Chapter 640.1.2. provisions will not occur without Department approval (see Chapter 640.1.7.).

P. Professional Services. The quality of engineering and supervision on a project will be considered. Sponsors must provide all engineering services necessary for design and construction, provide internal technical review, and insure that construction plans and specifications meet applicable health and safety standards.

Q. Coastal Zone Management. All actions significantly affecting the coastal zone are subject to the federal consistency requirements of the Coastal Zone Management Act of 1972, as amended. To fulfill the requirements of federal consistency, applicants should complete the TRACS review process (see Chapter 650.8.).

4. Approval. Any project submitted to the Department for consideration and found to be in accord with the project evaluation criteria and other current requirements, may be considered by the Parks & Wildlife Commission for approval. Approval is contingent upon the ranking of the project as evaluated through the open project selection process and availability of program funds.

GENERAL COST PRINCIPLES

1. Basic Concept. Office of Management and Budget (OMB) Circulars A-102 and A-87 and the State of Texas Uniform Grant Management Standards (UGMS) developed under the Uniform Grant and Contract Act of 1981, will be followed in determining the allowability and allocability of costs. Project costs will be matched project by project. Each project represents a separate transaction for purposes of determining the amount of the program assistance.

2. Relationship of Costs to Project Period. To be eligible for assistance, costs must have been incurred within the project period except for pre-agreement costs (see Chapter 670.1.3.C). The project period is the span of time stipulated on the agreement during which all work to be accomplished under the program does not reimburse obligations, regardless of when they are assumed; it reimburses costs incurred during the project period.

A. Development costs are first incurred at the start of actual physical work on the project site (such as the clearing of ground, the beginning of construction of a building, or the delivery of material to the site), and continue through the period the work is being done. Costs are not incurred at some earlier time when contracts are signed, funds obligated, or purchase orders issued, or at a later time when the ensuing bills are paid.

B. Since the transfer of ownership in real property can be a protracted process which differs under various state laws and procedures, the relationship of acquisition costs to project period is separated into two elements: the date when the acquisition cost is incurred and the date when the cost is eligible for reimbursement.

(1) Acquisition costs are incurred on the date when the earliest of any of the following transactions take place:

(a) The project sponsor accepts deed, lease or other appropriate conveyance;

(b) The project sponsor makes full payment for the property;

(c) The project sponsor makes the first or full payment as stipulated in an option agreement (The cost of the option, if included as part of the purchase price, is allowed as a retroactive cost.).

(d) The project sponsor makes first partial or full payment to an escrow agent.

(2) The transactions in (1) above will be used to determine whether an acquisition cost is incurred within the project period. Eligible acquisition costs (and retroactive option costs as appropriate) will be reimbursed only after the project sponsor has made payment and received satisfactory title to the property.

3. Community Outdoor Outreach Program Costs. Allowable COOP costs are discussed in Chapter 670.3.4.J.

4. Retroactivity. It is the intent of the Department that program assistance be awarded to assist work not yet undertaken, rather than to help pay for work already begun or completed. This applies to entire projects.

A. Policy. Retroactive costs are those costs incurred prior to approval of a project by the Department. With the specific exceptions stated below, retroactive costs are not eligible for matching funds.

In some cases, the sponsor will have begun planning and acquisition work, and thereby incurred costs before the project is acted upon. If such a project is approved, none of the costs incurred prior to approval will be matched, except as indicated in sections B and C below.

If, during the conduct of a project, it becomes apparent that completion will not be possible within the project period, the sponsor may submit a request for an amendment to extend the project period. This should be submitted at least 30 days prior to the expiration date. Requests for project period extension submitted after the expiration date will not normally be approved, and costs incurred after the expiration date will not be eligible for assistance.

B. Waiver of Retroactivity for Land Acquisition. Retroactive costs for land acquisition will not be matched under ordinary circumstances. Exceptions will be made only when immediate action is necessary and the time necessary to process an application would result in a significant opportunity being lost. The sponsor will request a waiver of retroactivity in writing from the Department prior to taking the land and will give justification for the proposed action. Such notification must include appropriate environmental information as outlined in Chapter 650.2.

A finding by the Department that an environmental impact statement might be required will preclude the granting of a waiver. Granting a waiver is only an acknowledgement of the need for immediate action; it does not imply a qualitative approval of the project. The retroactive costs are incurred at the applicant's risk, since the granting of the waiver does not in any way insure approval of the project.

C. Pre-Agreement Costs. It is recognized that some costs must be incurred before a proposed project can be submitted to the Department with the required descriptive and cost data.

(pre-agreement) - A grantee may, at its own risk, incur obligations and expenditures to cover costs prior to the effective date of an award provided the following criteria are met: the costs concerned are considered necessary to the conduct of the project, the costs are allowable under the *potential* award, and not when required for specific expenditures or activities, prior approval was obtained.

Such pre-agreement costs incurred prior to project submission to the Department are allowable.

5. Amendments of Scope. During the execution of a project there may be unforeseen delays, changes in specifications, or rising costs of labor and supplies which may make it necessary or desirable to alter the scope of the project by adding, deleting or modifying some of its parts.

Where such changes fall outside the allowed scope flexibility, the sponsor is required to notify the Department of such changes and to submit an amendment request as soon as possible to cover the modification.

Scope amendments will only be approved if the resulting changes insure that the project would have been competitive for funding in the review in which it was approved.

6. Supplemental Programs. In those instances where the administrative provisions of another state or federal grant program or fund allow recipients to use such assistance to match Department state or federal program funds, respectively, a matching arrangement, subject to Department's review, may be permissible.

When local sponsors use other state or federal grant programs or funds to match or supplement program assistance, the sponsor shall indicate in the project application the specific type of matching or supplemental assistance to be used, and proof that these funds are available at the time the program grant request is submitted.

DONATION MATCHING SHARE POLICIES

1. Matching Share. With the exception of Community Outdoor Outreach Program grants, program assistance shall not exceed 50% of the total eligible costs and is provided primarily on a reimbursement basis. The project sponsor will initially pay in full all costs accrued during the project period.

Reimbursement for the local share is made through the Department in accord with procedures outlined in the Grants Manual. Applicability of specific donations may vary according to program type. Refer to individual program Application Guides for clarification.

2. Applicability of Donations. The Department encourages the donation of cash and in-kind contributions, including real property, to project sponsors by private parties.

The value of the in-kind contributions may be used as all or part of the project sponsor's share of the project cost. The method of valuation and charges for volunteer services, material, and equipment must be documented and approved by the Department prior to the donations being applied to reimbursement requests in order for such contributions to be considered as part of the sponsor's matching share. Specific procedures for placing the value on in-kind contributions from private organizations and individuals in accord with OMB Circular A-102, 43 CFR 12.24, are set forth below:

A. Valuation of Volunteer Services. Volunteer services may be furnished by professional and technical personnel, consultants, and other skilled and unskilled labor. Each hour of volunteered service may be counted as matching share if the service is an integral and necessary part of an approved project. Records of in-kind contributions of personnel shall include time sheets containing the signatures of the person whose time is contributed and of the supervisor verifying that the record is accurate.

(1) Rates for Volunteer Services. Rates for volunteers should be consistent with those regular rates paid for similar work in other activities of the sponsor. In cases where the kinds of skills required for the program assisted activities are not found in the other activities of the grantee, rates used should be consistent with those paid for similar work in the labor market in which the grantee competes for the kind of services involved. The time of a person donating services will be valued at federal minimum wage or the wage the local sponsor would normally pay for such labor, unless the person is professionally skilled in the work being performed on the project (i.e., plumber doing work on pipes, mason doing work on a brick building). When this is the case, the wage rate this individual is normally paid for performing this service may be charged to the project. A general laborer's wages may be charged in the amount which the city or cities in the immediate area pay their city employees for performing similar duties.

(2) Volunteers Employed by Other Organizations. When an employer other than the grantee furnishes the services of an employee, these services shall be valued at the employee's regular rate of pay, provided these services are in the same skill for which the employee is normally paid.

B. Valuation of Materials. Prices assessed to donated materials included in the matching share should be reasonable and should not exceed current market prices at the time they are charged to the project. Records of in-kind contributions of material shall indicate the fair market value by listing the comparable prices and vendors.

C. Valuation of Donated Real Property. The value of donated real property shall be established by a state certified independent appraiser in accord with program approved guidelines (see Ch. 675.2). Upon completion of the appraisal, it shall be submitted to the Department for final review and approval. In extreme cases, or to resolve disputes as to the fair market value, the Department may require another appraisal.

D. Valuation of Donated Equipment. The hourly rate for donated equipment used on a project shall not exceed rates allowed by the Department. If the donor is in the equipment rental business, the normal rental rate that is charged will be utilized. Records of in-kind contributions of equipment shall include schedules showing the hours and dates of use and the signature of the operator of the equipment.

E. Documentation. The basis for determining the charges for donated personal services, material, equipment and land must be documented and approved by the Department prior to the billing. At no time will the sponsor be allowed to make a profit on a donation.

F. Limits of the Valuation. In-kind contributions are eligible in a project only to the extent of the cash expenditures incurred by the sponsor.

Example: Land valued at \$10,000 is donated to the project sponsor who proceeds to develop the property for recreational use. Development costs amount to \$6,000. The total project cost is therefore \$16,000 and the matching share would normally be \$8,000. But because only \$6,000 was actually spent, the sponsor share is reduced accordingly.

| | | |
|----------------------------|---|-----------------|
| Sponsor's expenditures | = | \$ 6,000 |
| Matching share of Donation | = | <u>\$ 6,000</u> |
| Total Project Cost | = | \$12,000 |
| 50% Reimbursement | = | <u>\$ 6,000</u> |

The amount of donation that is matchable is the value of the donation or the amount of cash spent by the sponsor, whichever is less.

G. Multi-Site Land Donations. To be eligible for matching assistance, in-kind contributions shall be applicable to a single project site. However, a multi-site project involving land donations may be considered to the extent that such is logical, reasonable, and more advantageous than the application of the donation to a single site.

3. Value of Publicly-Owned, Non-Parkland. The value of land already in public ownership which has never been: (a) dedicated as a public park or recreation area; (b) platted as a public park or recreation area; (c) used or managed as a public park or recreation area; or (d) acquired for the purpose of using said land as a public park or recreation area, is eligible to serve as a sponsor's match share. The landowner will be required to confirm such facts on the appropriate form in the application and may be required to submit further document of eligibility. Valuation will be dependent on Department approval of an independent appraisal, pursuant to uniform appraisal guidelines of the Grants Manual. Acquisition credit through the Project Priority Scoring Systems will also be allowed in such cases.

4. Valuation of Mandatory Dedication of Real Property. The value of real property to be acquired as a result of a mandatory park, recreation or open space local ordinance, resolution or applicable law shall be eligible to serve as match. Valuation will be dependent on Department approval of an independent appraisal, pursuant to guidelines of uniform appraisal standards of the Grants Manual.

ALLOWABLE COSTS

1. Determining Amounts of Costs.

A. General. Subject to the guidelines given in this chapter and in the Texas Uniform Grant Management Standards (UGMS), the rates, practices, rules, and policies of the project sponsor, as consistently applied, shall generally determine the amount of costs of each item charged to a project. In instances where the sponsor has no such basis, that of the State shall apply.

B. Ceiling on Amount of Cost Items. The amount of each item of cost that may be matched from the Account shall not exceed the sponsor's actual cash outlay for that item, or the fair market value of the item, whichever is less.

2. Ceiling on Total Matching Share From the Account. The total matching amount made available for an approved project shall not exceed the approved support ceiling.

3. Guidelines for Determining Allowable Costs. The basic statement regarding the principles and standards for determining costs applicable to this grants program is found in UGMS. The remainder of this chapter is based upon that source, which will be the authoritative guide on the subject.

A. To be allowable for program assistance, costs must meet the following criteria:

(1) Be necessary and reasonable for proper and efficient administration of the grant program, be allocable thereto, and, except as specifically provided in these guidelines, not be a general expense required to carry out the overall responsibilities of state or local government.

(2) Be authorized or not prohibited under state or local laws or regulations.

(3) Conform to the limitations of UGMS, federal and state law, or other governing limitations in the agreement as to types or amounts of cost items.

(4) Be consistent with policies, regulations, and procedures that apply uniformly to both program assisted and non-program assisted activities of the unit of government of which the project sponsor is a part.

(5) Be treated consistently through the application of generally accepted accounting principles appropriate to the circumstances.

(6) Be net of all applicable credits.

(7) Be adequately documented.

B. Allocable Costs.

(1) A cost is allocable to the grant to the extent of benefits received.

(2) Any cost allocable to a particular project may not be shifted to another project or another grant program to overcome fund deficiencies, avoid restrictions imposed by law or project agreements, or for other reasons.

C. Applicable Credits. Credits are receipts or reductions of expenditure-type transactions which offset or reduce allocable costs. Examples are discounts, rebates, recoveries on losses, sale of items, and adjustment of overpayments.

D. Total Costs. The total cost of a project is comprised of the allowable direct cost. Indirect costs are not allowable for program assistance.

E. Classification of Costs - Direct Costs. Direct costs are those identified specifically with and charged directly to a particular project. Typical direct costs are employee compensation for time and effort devoted to a specific project, costs of materials, costs of equipment and other capital expenditures, or the acquisition of land.

4. Allowable Costs for Acquisition and Development Projects. The following are allowable type costs. The allowability of these items is subject to the general principles outlined in Chapter 670.1 and elaborated in UGMS. For allowable COOP costs, see Chapter 670.3.4.J. Allowable costs for acquisition and development projects include, but are not limited to:

A. Personal Service. Assistance may be provided for the personal services of those employees and supervisors directly engaged in the execution of a project. Assistance will be provided according to the proportion of time spent on a project.

The cost of such compensation is allowable to the extent it is 1) reasonable for the services rendered, 2) follows an appointment made in accord with applicable state and local requirements, and 3) is determined and supported by generally accepted payroll practices and time and attendance or equivalent records.

Salaries and wages for persons working on program assisted projects shall not be higher than for similar persons on similar jobs.

B. Fringe Benefits. Fringe benefits, such as vacations, holidays, and sick, court, and military leave which are incurred during authorized absences from the job, and insurance, retirement plans, social security contributions, etc., which are regularly provided to employees by the project sponsor are legitimate personal service costs and are eligible for program assistance. Fringe benefit costs to a project should be computed in proportion to the time spent on a project.

Vacations and leave should not be taken or charged in excess of the amount earned while working on program assisted projects.

C. Professional Services. In those cases where the assistance of a specially qualified consultant is required for a project, a share of the cost may be borne by program monies. Consultants should be paid by the customary method of the project sponsor whether by per diem, salary, fee for service, etc. The "cost-plus-a-percentage-of-cost" method of contracting shall not be used. Consultants may, if it is the policy of the project sponsor, be reimbursed for travel and other expenses. Professional services, which include consultant services, architectural and engineering fees, and permit fees, shall not exceed 12% of the total construction portion of the program project. Sponsors may pay more, but program reimbursement is limited to 12%. Costs incurred for extensive environmental surveys will be allowed above the 12% limit on case by case basis.

No consultant fee may be paid to any federal, state or project sponsor's employee unless such a payment is specifically agreed to by the Department.

D. Equipment. Subject to determination on a case by case basis, program assistance will be made available for:

(1) Equipment Used in the Conduct of a Project. Costs of purchasing, leasing, or renting equipment utilized in the execution of a project are generally eligible for assistance.

(a) The purchase price of individual items of equipment costing less than \$1,000 is eligible, and the specific items need not be listed nor justified in the proposal.

Items costing \$1,000 or more may be eligible provided the sponsor clearly shows that it is more economical to purchase the item than to lease or rent it. They must be listed, with estimated costs, on the proposal. At project completion, any residual value of purchased items of equipment must be credited to the project.

(b) Reimbursement for use of equipment owned by local governmental agencies on projects will be based upon rates developed by FEMA.

(c) Lease or rental charges on equipment are allowable when it is determined that such an arrangement is most efficient and economical. Equipment that is rented to the sponsor by other government agencies or by private contractors may be charged to the program on a cost basis--provided, however, that these rates are equal to those charged to any other users. Adequate cost records and documentation must be maintained to support these billings.

(2) Purchase Price of Equipment Required to Make A Facility Initially Operational. Such equipment includes pumps, sprinkling systems, or towers, standby power plants, etc., necessary to provide for the recreation uses for which the proposal is approved. As a general rule equipment to be used for maintenance is not eligible for assistance (640.3.6G). However, certain smaller items of equipment (but not operational and maintenance supplies, i.e., cleaning compounds, chlorine, paper supplies, brooms) sometimes of an expendable nature, which may be required to make a facility initially operational may be allowable as part of the project cost. Generally, this will be confined to those equipment items specifically required under State Health Department regulations. For such items, the Department will make a judgment as to allowability. It would be impossible for the Department to establish a complete list of every conceivable item that might be required to make a facility operational initially, and a ruling will be made on a case-by-case basis.

E. Supplies and Materials. Supplies and materials may be purchased for a specific project or may be drawn from a central stock. The former should be charged to a project at their actual price, less discounts, rebates, etc., and the latter should be charged at cost under any recognized method of pricing consistently applied. Incoming transportation charges are a proper part of material cost.

F. Travel. The cost of transportation, lodging, subsistence, and related items is allowable when incurred by employees who are in travel status on official business incident to a project. Such costs may be on an actual basis, or a per diem or mileage basis, or a combination of the two (provided the method used is applied to an entire trip, and results in charges consistent with those normally allowed in like circumstances in non-program sponsored activities).

G. Information and Interpretation Costs. Program assistance may share the cost of information related to a project, as distinguished from publicity. These costs may include information and direction signs at the entrances of recreation areas and other necessary places throughout the area, display boards, dioramas, or other interpretive facilities for the explanation of items of interest and other facilities required to explain the area and bring it to public attention.

H. Construction. Allowable construction costs include all necessary construction activities from site preparation (including demolition, excavation, grading, etc.) to the completion of a structure. Construction may be carried out through a contract with a private firm, or by use of the project sponsor's own personnel and facilities (force account). Sponsors must adhere to applicable state bidding laws.

I. Administrative and Supporting Expenses. Program assistance will be available for a minimal amount of administrative and supporting expenses incurred directly or indirectly on behalf of a project. Administrative service will be held to a minimum to allow more funding for recreational areas and facilities. Limited administrative costs may be approved by the Department. Where cost items benefit the program assisted project in addition to other non-program assisted activities, the cost will be allowable to the extent they are allocable to the project. In addition, the Department may recover costs associated with administration of grant programs from the Account.

J. Allowable Costs for Community Outdoor Outreach Program (COOP) Recipients. Allowable costs include but are not limited to:

(1) **Personal Service.** Assistance may be provided for the personal services of staff, employees, supervisors and volunteers directly engaged in the execution of a program or activity. Assistance will be provided according to the proportion of the time spent on a project. The cost of such compensation is allowable to the extent it is a) reasonable for the services rendered, b) follows an appointment made in accord with applicable state requirements, and c) is determined and supported by generally accepted payroll practices and time and attendance or equivalent records. Salaries and wages for persons working on program assisted programs shall not be higher than for similar persons working in similar jobs.

(i) **Fringe Benefits.** Costs to a project should be computed in proportion to the time spent on a project.

(ii) **Consultant Services.** In those cases where the assistance of a specially qualified consultant is required for a project, those fees may be paid with program monies. Consultants should be paid by the customary method of a project sponsor, whether by per diem, salary, fee for service, etc. The "costs-plus-a-percentage-of-cost" method of contracting shall not be used. Consultants may, if it is the policy of the project sponsor, be reimbursed for travel and other expenses.

(2) **Equipment.** Subject to determination on a case by case basis, program assistance will be made available for the cost of purchasing, leasing or renting equipment used in the conduct of a project, provided that adequate cost records and documentation are maintained. Lease or rental rates provided

must be equal to those charged to any other users. This will include trailers, horse trailers, hitches, etc.

(3) **Storage Facilities.** The rates provided must be equal to those charged to any other users and fees charged will include only those incurred during the term of the contract.

(4) **Park Entry and Camping Fees.** Costs of park entry fees and camping related fees for program participants.

(5) **Supplies and Materials.** Supplies and materials must be charged to a project at their actual price, less discounts, rebates, etc.

(6) **Travel.** Transportation, lodging, subsistence, and related items incurred by employees or volunteers who are in travel status on official business pertaining to a specific project or program. Such costs may be on an actual basis, or a per diem or mileage basis, or a combination of the two (provided the method used is applied to an entire trip, and results in charges consistent with those normally allowed in like circumstances in non-program sponsored activities.

(7) **Information and Interpretation Costs.** The cost of information related to a project, including the cost of publicity, registration materials, educational materials, signage, and other materials required to explain the project and bring it to public attention.

(8) **Administrative and Supporting Expenses.** A minimal amount of administrative and supporting expenses incurred directly or indirectly on behalf of a project. Administrative services will be held to a minimum to allow more funding for direct programming activities.

(9) **Miscellaneous Costs.**

(a) Premiums on hazard and liability insurance to cover personnel and property directly connected with the project.

(b) Meals and food expenses directly related to the project.

(c) Prizes, awards, and certificates issued at COOP activities.

K. Costs of Purchase of Real Property and of Interests in Real Property. Program assistance may be used to pay a share of the fair market value of real properties and of interests in real property purchased by the project sponsor when determined by the Department to be capital costs. The only incidental costs eligible for reimbursement are for real property appraisals and boundary surveys. Costs for appraisals shall not exceed 5% of the land value or \$10,000, whichever is less. All other incidental costs of acquisition may not be matched. However, interest expenses awarded by the court as part of just compensation for acquisition in eminent domain situations may be matched.

The value of such properties or interests should be proposed by the sponsor. Steps shall be taken to assure that actions in identifying property for acquisition do not cause inflation of property values, and thereby increase the cost of the project.

Although a project sponsor may pay a greater amount, program assistance will generally be computed on the fair market value as determined by an acceptable appraisal.

Where court award in condemnation cases exceeds the support ceiling approved by the Department, the Department will not be obligated to pay on the higher amount.

Capital expenditures for acquisition of easements, and some other rights and interests in real property, may be eligible for program assistance.

L. Cost of Real Property Purchased from Other Public Agencies. The actual cost to the project sponsor of land purchased from another public agency may be eligible for matching assistance, subject to the following conditions:

- (1) The land was not originally acquired by the other agency for recreation.
- (2) The land has not been managed, used, or dedicated for public park or recreational purposes while in public ownership.
- (3) The selling agency is required by law to receive payment for land transferred to another public agency. Examples would be public school land that can be used for non-school purposes only through payment to the school agency, or excess state prison lands that can be transferred to local government use only on a purchase basis. The support ceiling will be based on the price paid by the project sponsor for the property or the fair market value, whichever is less. In some instances the selling agency may be permitted a choice between various state laws which would set the selling price at different levels depending upon which law is chosen by the agency. For example, various laws may be in force which would allow the agency to transfer the real property to another public agency for fair market value, for reimbursement of unpaid taxes, as a donation, or for other consideration. Program assistance will be limited to the minimum amount for which the property could be transferred legally and only in those instances for which there is an attorney general's opinion or established case law.
- (4) The requirement of appraisal, history of conveyances, and evidence of title are the same as normal purchases.

M. Costs of Real Property Acquired Through Exchanges. Land owned and administered by the project sponsor may be exchanged for more valuable land administered by another public agency or for land owned by a private party. The support ceiling will be based on the amount of cash, if any, that must be paid by the project sponsor in addition to the land conveyed, subject to appraisal requirements. Both parcels must be adequately appraised.

If the other party is a public agency, items (1) - (6) under Section 670.3.4.L. apply.

Example: The project sponsor exchanges a property appraised at \$10,000 for a privately owned property appraised at \$12,000, and pays the difference of \$2,000 cash. The amount to be reimbursed is 50% of \$2,000.

N. Real Property Acquired by Donation. The value of real property donated to the project sponsor by private organizations or individuals will be eligible for matching funds. The level of program assistance will be determined by Department approval of an independent appraisal pursuant to program manual guidelines. The land acquired cannot be subject to any restrictions that might limit its intended public recreation use.

O. Real Property Acquired by Mandatory Dedication. The value of real property acquired by the sponsor through mandatory dedication will be eligible for matching funds. The level of program assistance will be determined by Department approval of an independent appraisal pursuant to program manual guidelines. The land acquired cannot be subject to any restrictions that might limit its intended public recreation use.

P. Sponsor Owned Real Property. The value of sponsor owned land which meets conditions of Section 670.2.3 will be eligible for matching funds. The level of program assistance will be determined by a Department approved appraisal, pursuant to program manual guidelines.

Q. Master Site Planning. Master planning of a recreation area for which grant assistance is being requested, in whole or in part, will be matchable as part of a development project.

R. Miscellaneous Allowable Costs.

- (1) Payment of premiums on hazard and liability insurance to cover personnel and property directly connected with the project is allowable.

(2) Costs to the project sponsor for work performed by another public department or agency is allowable. This includes the costs of services provided by central service type agencies to the sponsor's departments and need not be supported by a transfer of funds between the departments involved.

5. Non-Allowable Expenditures. These expenditures shall not be included in the base for determining financial assistance:

- A.** Ceremonial or entertainment expenses.
- B.** Expenses for publicity.
- C.** Bonus payments of any kind.
- D.** Charges for contingency reserves or other similar reserves.
- E.** Charges in excess of the lowest responsible bid, when competitive bidding is required by the state or the sponsor, unless the Department agrees in advance to the higher cost.
- F.** Charges for deficits or overdrafts.
- G.** Taxes for which the organization involved would not have been liable.
- H.** Interest expenses, except those awarded by the court as part of just compensation for acquisition in eminent domain situations.
- I.** Charges incurred contrary to the policies and practices of the organization involved.
- J.** Consequential damage judgments arising out of acquisition, construction, or equipping of a facility, whether determined by judicial decision, arbitration, or otherwise. Consequential damages are damages, to adjoining property owned by other persons, which are caused by noise, lights, vibration, etc.
- K.** Incidental costs relating to acquisition of real property and of interests in real property (such as title search and legal fees), unless allowable under sections of the grants manual.
- L.** Operation and maintenance costs of recreation areas and facilities, except when the park, site, or area is owned or operated and maintained by the Department and is being transferred by the commission for public use to a political subdivision for operation and maintenance, with the funding period to be determined by the Commission.
- M.** Cost of discounts not taken.

N. Equipment to be used for the maintenance of recreation areas and facilities, including, but not limited to, automotive equipment, tractors, mowers, other machinery, and tools.

O. Employee facilities, including residences, appliances, office equipment, furniture, and utensils.

P. Donations or contributions made by the sponsor, such as to a charitable organization.

Q. Salaries and expenses of the chief executives of a political subdivision, or of the state legislature, or of other similar local governmental bodies.

R. Fines and penalties.

S. Any excess of cost over the state contribution under one grant agreement is not allowable under other grant agreements.

T. Any losses arising from uncollectible accounts and other claims, and related costs.

U. Legal and professional fees paid in connection with raising funds.

V. Payments for lobbying in connection with the awarding, extension, continuation, renewal, amendment, or modification of a program grant.

6. Non-Allowable Expenditures for Community Outdoor Outreach Projects. These expenditures shall not be included in the base for determining financial assistance:

- A.** Purchase of motor operated vehicles such as boats and automobiles.
- B.** Bonus payments of any kind.
- C.** Charges for contingency reserves or other similar reserves.
- D.** Charges for deficits and overdrafts.
- E.** Taxes for which the organization involved would not have been liable.
- F.** Interest expenses.
- G.** Cost of discounts not taken.
- H.** Employee facilities, including residences, appliances, office equipment, furniture and utensils.
- I.** Donations or contributions made by the sponsor, such as to a charitable organization.

J. Salaries and expenses of the chief executives of a political subdivision, or of the state legislature, or of other similar local government bodies.

K. Salaries and expenses of personnel not connected to the program or activity.

L. Fines and penalties.

M. Any excess of cost over the state contribution under one grant agreement is unallowable under other grant agreements.

N. Any losses arising from uncollectible accounts and other claims, and related costs.

O. Legal and professional fees paid in connection with raising funds.

P. Payments for lobbying in connection with the awarding, extension, continuation, renewal, amendment, or modification of a program grant.

GENERAL ADMINISTRATION REQUIREMENTS

1. General Responsibility. It is the responsibility of the Department and the project sponsor to prosecute a project under the general guidelines and rules established by the Department, governed in general by the concepts, rules and guidelines set forth in this Manual.

2. Arrangements with Sponsors. It is the Department's responsibility to insure the successful performance of projects and the continued operation and maintenance of program assisted facilities and properties for public recreational use. Such responsibility shall be in accordance with Grants Manual guidelines and the "Summary of Guidelines for Administration of Local Park Grants Programs and LWCF Acquisition and Development Projects" which shall be included in the project agreement.

3. Consideration of State and Federal Acts. During preparation of an application and conduct of a project, the sponsor shall comply with applicable state and federal laws and regulations relating to the acquisition and development of public properties.

4. Duration of Project. Acquisition and development projects will continue in force until all work under a grant is completed or until the project period of the approved project agreement and all amendments thereto have expired, whichever is earlier.

5. Prosecution of Project Work. The Department shall be responsible for ensuring that all projects receiving program assistance are carried through to stages of completion acceptable to the Department with reasonable promptness. Failure to maintain satisfactory progress or failure to complete the project to the satisfaction of the Department may be cause for the Department to withhold further payments on any or all projects of a sponsor or qualification of new projects until the project provisions are satisfactorily met. Program assistance may be terminated upon determination by the Department that satisfactory progress has not been maintained.

In the event that program assistance should be terminated, the sponsor shall be required to bring the project to a state of usefulness so funds invested shall not be lost. If the sponsor cannot complete the project with its own funds, it should submit a plan to the Department for bringing the incomplete project to a point where it is useful. The Department will not require that all parts of a project be completed in such a case if a stage of reasonable usefulness can be achieved short of completion.

6. On-Site Inspections by the Department.

A. Responsibilities. It is the responsibility of the Department to administer a program of on-site inspections of acquisition and development projects. On-site inspections may include pre-award, progress, final and post-completion inspections, as well as the associated reporting formats. Post-completion inspection requirements are contained in Chapter 675.5. Properties and facilities acquired or developed with program assistance shall be available for inspection by the Department at such intervals as the Department shall require.

B. Reports. On-site inspection reports will be prepared on all inspections conducted and will be included in the official project files maintained by the Department. The sponsor may be asked to provide a self certification report.

7. Income from Properties Acquired or Developed with Program Assistance. Income earned by project sponsors during and after the project period, including that from recreational use and land management practices, must be used to further the use objectives of the program assisted area or the local parks and recreation system.

8. Title to Properties Acquired or Developed with Program Assistance. State government will not obtain a legal right or title to any area or facility acquired or developed with program assistance.

9. Safety and Accident Prevention. In the performance of each project the sponsor shall comply with all applicable federal, state, and local laws governing safety, health, and sanitation. The sponsor and other participating organizations shall be responsible for assuring that all reasonable safeguards, safety devices, and protective equipment are provided, and will take other needed actions reasonably necessary to protect the life and health of employees on the job and the safety of the public, and to protect property in connection with the performance of work on the project.

10. Issuance of Rules and Instructions. The Department may issue additional or modified rules, instructions, interpretations, and guidelines from time to time as is necessary for the effective conduct of assistance activities. Such changes will apply to all projects for which project agreements are signed after the effective date of the changes. Whenever possible, sufficient lead time will be given between the announcement and the effective date to avoid application to projects already in process at the time of the announcement.

11. Failure to Comply with Federal or State Laws and Regulations. When the Department determines that a sponsor has violated or failed to comply with applicable federal or state laws, or the regulations governing this program with respect to a project, the Department may

withhold payment to the sponsor of program funds on account of such project, withhold funds for other projects of the sponsor, withhold approval of further projects of the sponsor, and take such other action deemed appropriate under the circumstances until compliance or remedial action has been accomplished by the sponsor to the satisfaction of the Department.

12. Sponsor Non-Compliance. The attorney general shall file suit in a court of competent jurisdiction against a sponsor that fails to comply with the requirements of Grants Manual to recover the full amount of the grant plus interest on that amount of five percent a year accruing from the time of noncompliance or for the injunctive relief to require compliance with the Grants Manual. If the court finds that the sponsor has not complied with the requirements of this Manual, it is not eligible for further participation in the program for three years following the finding for non-compliance (see Chapter 600.2 - Section 24.001 of the Parks and Wildlife Code).

**SUMMARY OF GUIDELINES
FOR ADMINISTRATION OF GRANT PROJECTS**
(Revised January 2008)

The Texas Parks & Wildlife Commission, by authority of Chapters 13 and 24 of the Parks & Wildlife Code, has adopted Guidelines for Administration of Grant Acquisition and Development Projects, to read as follows:

Policy. It is the Commission's policy that the Department shall administer local projects in accord with the following guidelines, with interpretation of intent to be made to provide the greatest number of public recreational opportunities for citizens of Texas.

Approved projects shall be pursued in a timely manner by the sponsor, unless delays result from extraordinary circumstances beyond the sponsor's control. Failure to meet the following time frames may be grounds for the Department to initiate cancellation of the affected project in order to recommend reallocation of available funds to other projects, or to deny requests for additional grant funds for new projects:

| <u>ACTIVITY</u> | <u>TIME FRAME</u> |
|---|--|
| • Commission Approval | Begin 3-year project period (4-year max) |
| • Grant Agreement Execution (Department & Sponsor) | As soon as possible after Commission approval |
| • Pending Documentation (U.S. Army Corps of Engineers 404 and/or TCEQ Permits, Texas Historical Commission Cultural Resources Survey and Clearance, TPWD Biological Consultations, ROW Abandonment, Lease/Joint-Use Agreement Execution, etc.) | Within 6 months of grant agreement date |
| • Quarterly Status Reports (beginning with Commission approval) | Due within 2 weeks of quarter closing dates of March 31, June 30, September 30, December 31 |
| • Appraisal Submission | As soon as possible after Commission approval |
| • Appraisal Approval | Within 6 months of appraisal submission |
| • Land Acquisition | As soon as possible after appraisal approval |
| • Construction Plan Submission | Within 6 months of land acquisition for projects involving acquisition; or Within 6 months of contract execution for development only projects. |
| • Periodic Reimbursement Billings | Every 90 days <u>if possible</u> (minimum \$10,000 request) |
| • Project Completion and Grant Close-Out | Within 3 years after Commission approval (but in no case after the 4 th fiscal year) |

SUMMARY OF GUIDELINES (Continued)

The following criteria will be used to determine sponsor eligibility for additional funding:

- Funding history and previous performance
- All previously completed Department sponsored grant projects must be in compliance with all the terms of the Project Agreement under which they received assistance and all program guidelines; and
- For active grants, all required project documentation (such as appraisals, construction plans, quarterly status reports, and reimbursement requests) must be complete and have been received on schedule, if due; and
- All active projects which are at least two years old must be reimbursed for a minimum fifty percent of the approved grant amount; and
- The total of approved grant funds which have not been reimbursed may not exceed \$2 million for all active grant projects.

A grantee may also be considered to be “high risk” based on financial stability or non conforming management standards, requiring additional special conditions and restrictions as determined by grant management standards.

FAILURE TO MEET ANY ONE OF THE ABOVE CRITERIA MAY BE GROUNDS FOR DENYING NEW GRANT FUNDS. ASSESSMENT OF THE ABOVE CRITERIA IN CONJUNCTION WITH REQUESTS FOR NEW GRANTS WILL BE MADE PRIOR TO SUBMISSION OF FUNDING RECOMMENDATIONS TO THE PARKS AND WILDLIFE COMMISSION.

SUMMARY OF GUIDELINES
FOR ADMINISTRATION OF COMMUNITY OUTDOOR OUTREACH PROGRAM PROJECTS
 (Revised January 2005)

The Texas Parks & Wildlife Commission, by authority of Chapter 24 of the Parks & Wildlife Code, has adopted Guidelines for Administration of Community Outdoor Outreach Program Projects, to read as follows:

It is the Commission's policy that the Department shall administer Community Outdoor Outreach Program projects in accord with the following guidelines, with interpretation of intent to be made to provide the greatest number of public recreational opportunities for citizens of Texas.

1. Approved projects shall be pursued in a timely manner by the sponsor, unless delays result from extraordinary circumstances beyond the sponsor's control. Failure to meet the following time frames may be grounds for the Department to initiate cancellation of the affected project in order to recommend reallocation of available funds to other projects, or to deny requests for additional grant funds for new projects:

| <u>ACTIVITY</u> | <u>TIME FRAME</u> |
|--|---|
| • Project Approval | Begin 1-year project period |
| • Quarterly Status Reports | Due within 2 weeks of quarter closing dates of March 31, June 30, September 30, and December 31 |
| • Project Completion and Grant Close-Out | Within 1 year after project approval (a 1-year extension may be awarded if needed) |

2. Determinations as to whether the Department will award new grant funds to applicants having either active outreach grants or completed outreach grants will be based on the following criteria:
 - All previously completed outreach grant projects must be in compliance with all the terms of the contract agreement under which they received assistance; and
 - All previously funded outreach projects must be completed, reimbursed, and closed out.
 - Applicants may not request assistance in consecutive years.

A grantee may also be considered to be "high risk" based on financial stability or non conforming management standards, requiring additional special conditions and restrictions as determined by grant management standards.

FAILURE TO MEET ANY ONE OF THE ABOVE CRITERIA MAY BE GROUNDS FOR DENYING NEW GRANT FUNDS. ASSESSMENT OF THE ABOVE CRITERIA IN CONJUNCTION WITH REQUESTS FOR NEW GRANTS WILL BE MADE 30 DAYS IN ADVANCE OF GRANT AWARD.

ACQUISITION METHODS AND APPRAISALS

1. Methods of Acquisition. Acquisition of land and water, or interests therein, may be accomplished through purchase, eminent domain, transfer, gift, mandatory dedication, or other means. The Department encourages public policies and procedures for the acquisition of real property that are fair and consistent, and directed toward giving the property owner the full measure of compensation authorized by law, promptly, with a minimum of inconvenience, and without prolonged negotiation or costly litigation.

A. Every reasonable effort should be made to acquire real property by a means other than eminent domain or condemnation.

B. Real property should be appraised before the initiation of negotiations. Program assistance will be based on the current fair market value of real property as established by an independent appraisal reviewed and approved by the Department. Property owners shall be afforded an opportunity to accompany the appraiser during the inspection of the property.

C. Condemnation should not be advanced or delayed in order to induce an agreement on price. If an agreement does not appear possible after a reasonable period of negotiation, the project sponsor may, if authorized by law, institute condemnation proceedings.

D. If a partial taking would leave the owner with an uneconomic remnant, the sponsor shall offer to acquire the entire property.

E. In determining the boundaries of a project, the sponsor should take into account human considerations, including the economic and social effects of the acquisition and subsequent development on owners and tenants in the adjacent area, in addition to engineering and other factors.

2. Basis For Assistance. Generally, the market value standard will be used as the basic measure of program assistance on acquisitions. Program assistance shall be based upon evidence of this value. When determined by the Department to be capital costs and when other pertinent conditions are met, any degree of long term interest in real property can be considered for matching aid, whether purchased by or donated to the project sponsor. Properly documented costs of severance damage may be matched. Severance damage is the diminution in value of the remaining land due to the particular land taken and is considered to be an inherent part of just compensation. The only incidental costs of acquisition which may be matched are appraisal and boundary survey costs.

Payments shall be made only after the Project Agreement has been executed for the project involved.

3. Department Action on Acquisition Documents. The Department will approve all appraisal reports for adequacy and consistency. Other documents may also be checked to determine whether they adequately serve the purposes intended for them. Additional information, including a new appraisal, may be required when circumstances so warrant.

4. Waiver of Requirements. The Department may waive any of its documentation or payment requirements upon request or upon its own initiative, when in the opinion of the Department a requirement is not necessitated by law and does not reduce any protections provided by the Grants Manual. When such a waiver is given, the Department reserves the right to establish suitable and reasonable conditions under which the waiver may be operative.

When a waiver is needed, it should be requested by the sponsor. The request should include a justification for the waiver and a statement of how a proposed substitute report or system would meet the need of the Department to justify payments from the grants program.

5. Appraisals. The sponsor shall secure an appraisal of the appropriate type by a State of Texas certified appraiser for all real property to be taken. If more than one parcel is to be acquired, all parcels shall be appraised in the same report. Individual parcel appraisal reports will not be reviewed by the Department, nor are they eligible for program assistance. **When federal funds are involved, standards for appraisals shall be consistent with the current Uniform Appraisal Standards for Federal Land Acquisition.** Except for written Findings of Value (C below), the appraisal should be an analytical narrative report following current professional appraisal practices involving the application of standard techniques, such as comparative/market approach or cost less depreciation. Other portions of the report, such as introductory and supporting data, limiting conditions and certifications should also meet these standards.

The formality and detail of required documentation will be determined, as described below, by the value of the real property involved in each instance. Depending on value, the Department will require detailed appraisal reports, abbreviated appraisal reports, or written findings of value. The appraisal will be submitted to the Department for review unless otherwise noted or requested. A detailed appraisal is required for all projects involving the donation of real property or interests therein.

A. Detailed Appraisal Report. If an acquisition will cost \$25,000 or more, the project sponsor will apply the following appraisal requirements.

The report on any individual property may vary depending upon the type of property under appraisal. Additional data may be required in the case of highly specialized properties. Items may be deleted as in the case of land valuation only. Generally, however, all items must be considered by the appraiser and included in the report unless otherwise requested and agreed to by the Department, and omissions must be explained by narrative.

The Appraisal Report should cover the following:

(1) **Opportunity to Accompany.** Property owners (or a designated representative) shall be afforded an opportunity to accompany the appraisers during the inspection of the property. The appraisal report shall indicate whether or not the owner or representative accompanied the appraiser.

(2) **Qualifications.** Statement of qualifications (education, experience, list of clientele, appraiser's State of Texas Certification number) of all appraisers and/or technicians contributing to the report.

(3) **Statement of Limiting Conditions.** The appraiser should provide clear concise statements of all assumptions, including the following specifics:

- (a) That the title to the property is marketable,
 - (b) That the appraiser assumes no responsibility for legal matters, and
 - (c) That all data furnished by others are presumed correct.
- (4) **Purpose of the Appraisal.** This shall include a definition of all values required and appraised.
- (5) **Identification of Property.** Legal description of the whole tract and that to be acquired.

(6) **City and Area Data.** This data (mostly social and economic) should be kept to a minimum and include only such information as directly affects the property being appraised.

(7) **Property Data.**

(a) **Site.** Describe soil, topography, mineral deposits, easements, etc. If there is an indication that mineral deposits have more than a nominal commercial value, this fact shall be clearly stated.

(b) **Easements.** If land is to be acquired over which the sponsor has limited control or use, such as land encumbered by easements, proper adjustments must be made to the appraisal reports to reflect the limited control. If no adverse easements exist, report should so state.

(c) **Improvements.** This shall be by narrative description, including dimensions of principal buildings and/or improvements. A floor plan of each building is required.

(d) **Equipment.** This shall be by narrative description including the condition of equipment.

(e) **Condition.** The current physical condition and relative use and obsolescence shall be stated for each item or group appraised and, whenever applicable, the repair or replacement requirements to bring the property to usable condition.

(f) **Assessed Value and Annual Tax Load.** Include the current assessment and dollar amount of real estate taxes. *If the property is not taxed, the appraiser shall estimate the assessment in case it is placed upon the tax roll, state the rate, and give the dollar amount of the tax estimate.*

(g) **Zoning.** Describe the zoning for the subject and comparable properties.

(8) **Analysis of Highest and Best Use.** The report shall state the highest and best market use that can be made of the property (land and improvements and where applicable, machinery and equipment) for which there is a current market. The valuation shall be based on this use. In no case shall the land be appraised for one highest and best use and the value of the improvements added when they do not contribute to the fair market value of the land under the highest and best use. Such special purpose appraisals are not allowable.

Also, subdivision development should not be selected as a highest and best use. The Texas Supreme Court has ruled the subdivision approach as an inaccurate and inappropriate method of appraisal, and reports relying on this method of appraisal will not be supported by the Department.

Additionally, recreation should only be selected as a highest and best use when private sector recreation sales are used as comparable sales. If no non-public recreation sales are available, a highest and best use other than recreation should be selected and supported (see Sec. 675.2.5.F.(1)(a)).

(9) Land Value. The appraiser's opinion of the value of the land shall be based upon its highest and best use, regardless of any existing structures and shall be supported by confirmed current factual data (sales and offerings) of comparable, or nearly comparable, lands having like optimum uses. Differences shall be weighed and explained to show how they indicate the value of the land being appraised.

(10) Value Estimate by Cost Approach. This section shall be in the form of computational data, arranged in sequence, beginning with reproduction or replacement cost, and shall state the source (book and page if a national service) of all figures used. The dollar amounts of physical deterioration and functional and economic obsolescence, or the omission of same, shall be explained in narrative form. This procedure may be omitted on improvements, both real and personal, for which only a salvage or scrap value is estimated.

(11) Value Estimate by Income Approach. This shall include adequate factual data to support each figure and factor used and shall be arranged in detailed form to show at least (a) estimated gross rent or income; (b) an itemized estimate of total expenses including reserves for replacements.

Capitalization of net income shall be at the rate prevailing for this type of property and location. The capitalization technique, method and rate used shall be explained in narrative form supported by a statement of sources of rates and factors.

NOTE: Unless there are extraordinary conditions to justify use of the Income Approach method, the Department will normally reimburse the sponsor for the current market value of the land determined by the comparative sales appraisal approach.

(12) Value Estimate by Comparative (Market) Approach. All comparable sales used shall be confirmed by the buyer, seller, broker, or other person having knowledge of the price, terms and conditions of sale. Each comparable sale shall be weighed and explained in relation to the subject property to indicate the reasoning behind the appraiser's final value estimate from this approach.

(13) Interpretation and Correlation of Estimates. The appraiser shall interpret the foregoing estimates and shall state the reasons why one or more of the conclusions reached in items (10), (11), and (12) are indicative of the market value.

(14) Tabulation of History of Conveyance (property sales and transfers). Include parties to the transactions, dates of purchase, and amounts of consideration for at least 5 years prior to appraisal.

(15) Certification of Appraiser.

- (a) He/she has personally inspected the property.
- (b) He/she has no present or contemplated interest in the property.
- (c) That in his/her opinion the market value of the taking as

of _____ is \$ _____
(Valuation date)

(Signature)

(16) Exhibits and Addenda. (Note: All maps and plans may be bound as facing pages opposite the description, tabulation, or discussions they concern).

- (a) Location Map. Include the city or area.
- (b) Comparative Map Data. Show geographic location of the appraised property and the comparative parcels analyzed.
- (c) Comparative Data Details. Narrative.
- (d) Plot Plan. Include a metes and bounds description.
- (e) Floor Plans. Include for all improvements on the property.
- (f) Photographs. Pictures shall show at least the front elevation of the major improvements, plus any unusual features. When a large number of buildings are involved, including duplicates, one picture may be used for each type. Views of the best comparables should be included whenever possible. Except for the overall view, photographs may be bound as pages facing the discussion or description to which the photographs pertain. All graphic material shall include captions.
- (g) Other Pertinent Exhibits. Include as deemed appropriate.

B. Abbreviated Appraisal Report. An abbreviated appraisal report, compiled by a qualified, State of Texas certified appraiser and adequately related to comparable sales, is acceptable for a parcel with value estimate between \$1,000 and \$25,000. The abbreviated report should include:

- (1) A brief description of the subject property to include physical characteristics, present use, zoning, public utilities associated with the land, deed restrictions, and any other pertinent information.

(2) A legal description of the real property to be acquired and a plat.

(3) At least a 5 year history of conveyances (property sales and transfers), including parties to the transactions, dates of purchase, and amounts of consideration.

(4) An analysis and statement of the property's highest and best use.

(5) Supporting data, including two or three comparable real property sales, a brief analysis of those sales, and a map showing their locations relative to the land to be acquired.

(6) The appraiser's certification and signature (see Item 5.A.15).

(7) The date the value estimate applies.

(8) A statement of the appraiser's experience and qualifications.

(9) Opportunity to Accompany. Property owners (or a designated representative) shall be afforded an opportunity to accompany the appraisers during the inspection of the property. The appraisal report shall indicate whether or not the owner or representative accompanied the appraiser.

(10) Location Map. Include the city or area.

(11) Boundary Map (Plat). Include a metes and bounds description.

C. Finding of Value. Where a parcel has a value of less than \$1,000 and the expense of an appraisal would be disproportionate to its benefit, a written finding of value by a qualified appraiser will be acceptable for approval. This finding of value can be based on the individual's knowledge of land values, but should include a statement of the appraiser's experience and qualifications, including a short description of the factors considered and the means by which a conclusion was reached. These statements should be sufficiently detailed so as to enable the Department to judge their respective merits.

D. Eminent Domain/Condemnation. When lands are acquired through judicial proceedings, the price determined by the court will be accepted by the Department in lieu of any previously Department approved appraised value. The Department, however, will not be obligated to match an amount higher than the approved support ceiling of the project.

E. Acquisition by Donation. One appropriate appraisal report is administratively required for all projects involving the donation of real property or interests therein for

determination of matching share. Prior to project approval or the first reimbursement request:

(1) The Department shall ensure that the project sponsor secures adequate appraisal services.

(2) The project sponsor will have an appraisal made in accord with commonly accepted appraisal practices and Section 675.2.5.

(3) Upon completion of the appraisal, it shall be submitted to the Department for review and approval. After project agreement execution and Department approval of the appraisal, the cost of the appraisal is reimbursable, up to 5% of the value of the land, or \$10,000, whichever is less.

F. Appraisals for Properties With Man-Made Improvements. For acquisition projects which involve the acquisition of properties with man-made improvements, the following methodology must be followed by the appraiser for the valuation of such improvements.

(1) If the highest and best use of the property is determined to be for "recreation":

(a) Fair market value must be justified utilizing private sector recreation properties as comparable sales.

(b) Improvements on the property which are for recreation (and are therefore potentially eligible for program assistance) must be valued at their "current depreciated value".

(c) Improvements on the property which cannot be utilized for recreation must be assessed for salvage/scrap value. (Such improvements are not eligible for grant support.)

(2) If the highest and best use of the property is determined to be for "other than recreation":

(a) Improvements which are for "recreation use" must be assessed for their salvage/scrap value. (The salvage/scrap value can be eligible for grant support).

(b) Improvements which are for "other than recreation use" must be valued at their depreciated value. These improvements are eligible for grant assistance only if they are to be demolished/removed from the site, or if the improvements are to be utilized for (or in support of) recreation activities. To be grant supported, the improvements must either be handicapped accessible in their current state, or they must have the ability to be modified and made accessible, pursuant to state law requirements.

G. Sponsor Owned Land Used as Match. An appropriate appraisal report is required to establish the level of program assistance, pursuant to Grants Manual guidelines, when

sponsor owned, non-dedicated parkland is used as the local match.

6. Statement on Differences in Value. An appraisal, if competently compiled by a qualified person, should be an acceptable estimate of property value; it cannot be assumed, however, to be an absolute statement of value. The approved appraisal value is the basis for establishing the level of grant support.

7. Reservations and Outstanding Rights. In an effort to stretch the dollars spent, the project sponsor might wish to purchase less than fee simple title. This would be permissible when fee simple title is excessively expensive, and a lesser control of the area will not detract from the recreation use of the land and not have significant impact on the environment.

8. The Department will not obtain a legal right or title to any area or facility acquired with Local park grants programs assistance.

9. Evidence of Title. The Department must have on file satisfactory evidence of the purchase price and a description of the character and nature of the title received by the sponsor before the Department reimburses grant funds.

Evidence of title, such as a written statement by the State Attorney General, title insurance, or other means considered reasonable and adequate, must also be available to the Department before requesting reimbursement.

A survey may be required by the Department when there is reasonable doubt about the exact location of the boundary or of the size of the tract being acquired.

10. Responsibility for Quieting Title or for Replacement of Properties Acquired with Defective Title. The sponsor is responsible for quieting claims against title and for replacing property found to have defective title with other properties of equivalent value, usefulness and location acceptable to the Department.

11. Acquisition of Interest in Real Property. The acquisition of easements, rights-of-way, etc., will be viewed in the same light as full takings. Documentation of value by appraisal will be the same. The project proposal should adequately explain why lesser interests are to be acquired.

TEXAS LOCAL PARK GRANTS PROGRAMS PROJECT ACKNOWLEDGEMENT SIGN STANDARDS

1. Acknowledgement of Program Assistance. Suitable permanent public acknowledgement of program assistance at all project sites is required by the Department. When acquisition or development projects are initiated, appropriate standardized temporary signing shall be located on or near the affected site, to the extent feasible, so as to indicate the percentage and dollar amounts financed by state and non-state funds and that the source of the state funding includes monies derived from a portion of the state tax on sporting goods.

Upon termination of temporary signage, permanent signage shall be installed. Such acknowledgement will represent a state-local partnership role in creating new high quality recreation areas and facilities. Temporary signage is not required for acquisition projects if permanent signage immediately follows the purchasing of the site.

2. Guidelines for Temporary Signing. Temporary signs are required for all development projects and for all combination projects. In the case of combination projects, temporary signage will commence at the time development is initiated with the sign acknowledging both acquisition and development. Development only projects will be signed at the time construction action is initiated. In both cases, the sign will remain until completion of the development.

Publicizing an acquisition project by the installation of signs prior to the completion of the acquisition, particularly those involving the acquisition of several parcels, could seriously affect the negotiations for the properties to be acquired. Therefore, signage of acquisition projects should be delayed until the acquisition of all parcels is completed and all relocations have occurred. Also, the display of dollar amounts for acquisition projects is optional where such display may be detrimental to the project or future acquisitions.

3. Standards for Acknowledgement Signs. All acknowledgement sign standards shall be specified in the Instructions For Approved Projects.

4. Allowable Costs. Costs related to project acknowledgement are allowable costs as part of initial capital investment, and may receive program assistance. Replacement costs as a part of project operations and maintenance are not allowable.

FINANCIAL MANAGEMENT AND REPORTING

1. Purpose. This chapter generally covers accounting, records, and reporting requirements.

2. Financial Responsibility. The sponsor shall be responsible for the financial management of approved projects. Appropriate internal controls must, therefore, be adopted and installed to insure that the project is accomplished in the most efficient and economical manner.

3. Standards for Grantee Financial Management Systems. Local government systems for the financial management of program assisted activities shall be in accordance with the Uniform Grant Management Standards (UGMS). This Act adopts the common rule of OMB Circular A-102, and provides for:

A. Accurate, current, and complete disclosure of the financial results of each project grant.

B. Records which identify adequately the source and application of funds for grant-supported activities. These records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

C. Effective control over and accountability for all funds, property, and other assets. The grantee shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

D. A systematic method to assure timely and appropriate resolution of audit findings and recommendations.

E. Procedures for determining the allowability and allocability of costs in accordance with the provisions of UGMS and the Grants Manual.

F. Accounting records which are supported by source documentation. Separate project accounts shall be established and identified by the number assigned to the project by the Department.

G. Audits to be made by the sponsor in accordance with the State of Texas Single Audit Circular (or OMB Circular A-133 if federal funds are used) to determine, at a minimum, the fiscal integrity of financial transactions and reports, and compliance with laws, regulations, and administrative requirements. The sponsor will schedule such audits as required by regulation (see Chapter 675.7).

The Department shall require all project sponsors to adopt all the standards in paragraph 3 above.

4. Monitoring and Reporting of Program Performance.

The Department shall ensure that all sponsors receiving program assistance adhere to procedures regarding project monitoring and program performance, as follows:

A. The Department shall monitor the performance of approved projects to assure that time schedules are being met, projected work units by time periods are being accomplished, and other performance goals are being achieved (see Chapter 675.1.).

B. Performance reports shall be submitted within 2 weeks of the quarterly ending dates of March 31, June 30, September 30, and December 31, and shall include the following:

(1) The status of the work required under the project scope including the percentage of work completed, percentage of costs billed, and whether or not the project will meet established target dates for completion.

(2) Other pertinent information including analysis and explanation of cost overruns, time schedule delays, and other similar problems encountered and their expected impact on the project, etc.

(3) Sponsors are encouraged to use the standard reporting form provided by the Department.

(4) Generally, reimbursement requests will not be processed by the Department in the absence of a current status report.

C. The Department shall make site visits as frequently as practicable on a spot check basis to:

(1) Review project accomplishments and management control systems (see Chapter 675.1.6.), and

(2) Provide technical assistance as may be required.

5. Retention and Custodial Requirements for Records.

In accordance with Uniform Grant Management Standards the following policies will apply to the Department and sponsors regarding records maintenance:

A. Financial records, supporting documents, statistical records, and construction plans pertinent to a grant project shall be retained for a period of three years after final payment on a project or element. The records shall be retained beyond the 3 year period if audit findings have not been resolved.

B. The retention period starts from the date of final payment to the sponsor.

C. The Department, or any of its duly authorized representatives, shall have access to any books, documents, papers, and records of the local government sponsors and their sub-grantees which are pertinent to a specific project for the purpose of making audits, examinations, excerpts and transcripts.

D. The Department shall submit, after project closeout, copies of all significant maps and records (particularly oversize items) to the State Archives Records Center for retention into perpetuity and for compliance with Chapter 640.1.2 of the Grants Program.

TEXAS UNIFORM GRANT & CONTRACT MANAGEMENT ACT OF 1981
(CHAPTER 783 Texas Government Code)

An Act relating to intergovernmental efficiency and coordination in grant and contract management.

Be it enacted by the Legislature of the State of Texas:

Short title

Section 1.

This Act may be cited as the Uniform Grant and Contract Management Act of 1981.

Policy

Section 2.

It is the policy of the state to promote the efficient use of public funds in local government and in programs requiring cooperation among local, state and federal agencies.

Definitions

Section 3.

In this Act:

- (1) "Local government" means a city, county, or other political subdivision of the state, but does not include a school district or other special purpose district.
- (2) "State agency" means a state board, commission, department, or officer having statewide jurisdiction, but does not include a state college or university.
- (3) "Assurance" means a statement of compliance with federal or state law that is required of a local government as a condition for the receipt of grant or contract funds.
- (4) "Financial management conditions" means generally applicable policies and procedures for the accounting, reporting, and management of funds that state agencies require local governments to follow in the administration of grants and contracts.

Uniform administration of grants and contracts with local governments

Section 4.

- (a) The governor's office is designated the state agency for uniform grant and contract management.
- (b) The governor's office shall develop uniform and concise language for any assurances local governments are required to make to state agencies as a condition for receipt of grant or contract funds.
- (c) The governor's office may categorize the assurances according to the type of grant or contract, designate programs to which the assurances are applicable, and periodically revise or update the assurances.
- (d) The standards developed under this Act shall not be constructed to affect methods of distribution or amounts of federal funds received by state agencies or local agencies.

Standard financial management conditions

Section 5.

(a) The governor's office shall compile and distribute to state agencies an official compilation of standard financial management conditions that are generally applicable to the administration of grants and contracts by local governments. This compilation shall be developed from Federal Management Circular A-102 or future revisions of that circular and from other applicable statutes and regulations. The compilation shall include official commentary as to administrative or judicial interpretation that affect the application of financial management standards.

(b) The governor's office may categorize the financial management conditions according to the type of grant or contract, designate programs to which the conditions are applicable, and periodically revise or update the conditions.

Adoption of financial management conditions and assurances

Section 6.

(a) A state agency must use the standard financial management conditions and inform assurances applicable to local governments receiving financial assistance from that agency unless variation in the conditions or assurances are required or specifically authorized by federal statute or regulation or by state statute.

(b) Variations from the standard conditions and uniform assurances must be established by agency rule in accordance with the Administrative Procedure and Texas Register Act (Article 6252--13a, Vernon's Texas Civil Statutes). Reasons for the variations must be stated along with proposed rules, and the reasons must be based on the applicable federal statutes or regulations or state statutes.

(c) A notice of each proposed rule that establishes a variation from the standard conditions or uniform assurances must be filed with the governor's office.

(d) This section is effective September 1, 1982.

State audits of grants and contracts to local governments

Section 7.

(a) To avoid duplicate audits and unnecessary audit costs, a local government receiving state-administered financial assistance may request by action of its governing body a single audit or coordinated audits by all state agencies from which it receives funds.

(b) On receipt of a request for a single audit or audit coordination, the governor's office in consultation with the state auditor shall within 30 days designate a single state agency to coordinate state audits of the local governments.

(c) The designated agency shall, to the extent practicable, assure single or coordinated state audits of the local government for as long as the designation remains in effect or until the local government by action of its governing body withdraws its request for audit coordination.

(d) This section does not apply to audits performed by the comptroller of public accounts or state auditor.

Effective date

Section 8. Except as otherwise provided by this Act, this Act takes effect immediately.

Chapter 699

EMERGENCY

Section 9.

The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

Passed by the House on April 7, 1981: Yes 138, Nays 4. 1 present, not voting: House refused to concur in Senate amendments to H.B. No. 391 on May 4, 1981, by a non-record vote, and requested the appointment of a conference committee to consider the differences between the two houses; House adopted the conference committee report on H.B. No. 391 on May 22, 1981: Yes 129, Nays 7, 2 present, not voting: passed by the Senate, with amendments, on April 30, 1981, by a viva voce vote; at the request of the House the Senate appointed a conference committee to consider the differences between the two houses; Senate adopted the conference committee report on H.B. No. 391 on May 25, 1981, by a viva voce vote.

Approved June 16, 1981.

Effective Aug. 31, 1981, 90 days after date of adjournment, except § 6 effective Sept. 1, 1982.

AUDITS

1. Purpose. This chapter establishes audit requirements in accord with OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations", and the State of Texas Single Audit Circular, developed under the Uniform Grant Management Standards (UGMS) Texas Government Code, Ch. 783.

The Act provides requirements for 1) conducting entity-wide audits under cognizant state agencies, 2) determining criteria for making charges to state programs for the cost of audits, and 3) providing procedures to assure that small firms or firms owned and controlled by disadvantaged individuals have the opportunity to participate in contracts for single audits. Such audits are to determine whether:

- A. Financial operations are conducted properly;
- B. Financial statements are presented fairly;
- C. The organization has complied with laws and regulations affecting the expenditure of state funds;
- D. Internal procedures have been established to meet the objectives of state assisted programs, and
- E. Financial reports contain accurate and reliable information.

2. Responsibilities.

A. **Local.** Sponsors shall use their own procedures to arrange for independent audits and to prescribe the scope of audits provided that the audits comply with the requirements set forth in this chapter and are in accord with the procurement standards prescribed OMB Circular A-102, "Uniform requirements for grants to state and local governments." The standards provide that while recipients are encouraged to enter into intergovernmental agreements for audit and other services, analysis should be made to determine whether it would be more economical to purchase the services from private firms. In instances where use of such intergovernmental agreements are required by state statutes (e.g. audit services) these statutes will take precedence. Where contracts are awarded for audit services, the contracts shall include a reference to OMB Circular A-133 as incorporated into 43 CFR Part 12 Subpart B. All audit materials shall be available for review by the cognizant federal or state agency or authorized representatives thereof having state audit responsibilities. All records essential to state audit purposes shall be retained by the sponsor for 3 years after final payment on the project by the state government. The material shall be maintained beyond the required 3-year period if audit findings have not been resolved.

B. **State.** The Department is responsible for determining that state funds have been applied effectively and in a manner consistent with federal and state laws, program objectives, and project agreements. The Single Audit Act provides that an audit made in accordance with the rule (43 CFR Part 12 Subpart B) shall be in lieu of any financial or financial compliance audit required under individual state assistance programs. To the extent that a single audit provides the Department with information and assurances it needs to carry out its overall responsibilities, it shall rely upon and use such information. However, a state agency shall make any additional audits which are necessary to carry out its responsibilities under federal and state law and regulation. Any additional state audit effort shall be planned and carried out in such a way as to avoid duplication.

3. Standards.

A. **Procedures.** Audits shall be made in accord with the General Accounting Office's "Standards for Audit of Government Organizations, Programs, Activities and Functions" and the "Compliance Supplement for Single Audits of State and Local Governments", any compliance supplements approved by OMB, and generally accepted auditing standards established by the American Institute of Certified Public Accountants. Audits usually will be made annually, but not less frequently than every two years.

B. **Scope.** Audits will include, at a minimum, an examination of the systems of internal control, the systems established to ensure compliance with laws and regulations affecting the expenditure of state funds, financial transactions and accounts, and financial statements and reports of recipient organizations.

Examinations shall be made to determine whether:

- (1) There is effective control over and proper accounting for revenues, expenditures, assets, and liabilities.
- (2) The financial statements are presented fairly in accordance with generally accepted accounting principles.
- (3) The local sponsor financial reports (including financial status reports, cash reports, and claims for reimbursement) contain accurate and reliable financial data and are presented in accordance with the terms of applicable agreements, and in accordance with Attachment H of OMB Circular A-102.
- (4) State funds are being expended in accordance with the terms of applicable agreements and those provisions of federal and state law or regulations that could have a material effect on the financial statements or on the awards tested.

(5) Charges made:

- (a) Are necessary and reasonable for the proper administration of the program;
- (b) Conform to any limitations or exclusions in the award;
- (c) Were given consistent accounting treatment and applied uniformly to both state assisted and other activities of the recipient;
- (d) Were net of applicable credits;
- (e) Did not include costs properly chargeable to other state assisted programs;
- (f) Were properly recorded (i.e. correct amount, date) and supported by source documentation;
- (g) Were approved in advance, if subject to prior approval in accordance with OMB Circular A-87, "Cost principles for state and local governments";
- (h) Were incurred in accordance with competitive purchasing procedures, if covered by of OMB Circular A-102; and
- (i) Were allocated equitably to benefiting activities, including non-state activities.

C. Reports. The audit report shall include:

- (1) Financial statements, including footnotes, of the recipient organization.
- (2) The auditors' comments on the financial statements which should:
 - (a) Identify the statements examined, and the period covered;
 - (b) Identify the various programs under which the organization received federal and state funds, and the amount of the awards received;
 - (c) State that the audit was done in accordance with the standards in Section 675.7.3.A; and
 - (d) Express an opinion as to whether the financial statements are fairly presented in accordance with generally accepted accounting principles. If an unqualified opinion cannot be expressed, state the nature of the qualification.
- (3) The auditors' comments on compliance and internal control should:

- (a) Include comments on weaknesses in and noncompliance with the systems of internal control, separately identifying material weaknesses;
- (b) Identify the nature and impact of any noted instances of noncompliance with the terms of agreements and those provisions of federal and state laws or regulations that could have a material effect on the financial statements and reports; and
- (c) Contain an expression of positive assurance with respect to compliance with requirements for tested items, and negative assurance for untested items.
- (4) Comments on the accuracy and completeness of financial reports and claims for reimbursement to state agencies.

4. Exceptions. An audit exception is a determination by an appropriate authority that an item questioned by the auditor is not properly chargeable to the project agreement and should be disallowed. The Department determines the allowance or disallowance of items questioned by the auditor. The Department will be responsible for the review of audit reports received from cognizant federal or state agencies. The Department will be responsible for advising the sponsors of the audit findings, together with recommendations and suggestions for overcoming the deficiencies disclosed by the audit, and also advise the sponsors of the disallowance of any items.

The Department requires that the sponsor formally respond to the Department concerning audit exceptions within 90 days of the issuance of the audit report. It is hoped that this response will resolve most or all of the audit exceptions. At the least, this initial response should include:

- A. Whether there is agreement with the audit findings and recommendations. If there is non-concurrence, the specific reasons must be stated.
- B. Recommendations or support documentation for corrective action (resolution) of the audit exceptions.

All audit exceptions must be fully resolved within six (6) months of the issuance of the audit report. If resolution of an audit exception indicates the need for reimbursement of the state share, then such reimbursement must be made within 60 days after such resolution. After the six (6) month period from the date of issuance of the audit report, unresolved audit exceptions will be disallowed and reimbursement of the state share must be made within sixty (60) days. Reimbursement of the state share may be accomplished by a credit of payment to billings, or by check to the Department.

PROJECT TERMINATION /COMPLIANCE

1. This chapter prescribes project closeout procedures for program assisted grant projects.

2. **Termination**. The termination of a project means the cancellation of program assistance, in whole or in part, under a project at any time prior to the date of completion.

3. **Suspension**. The suspension of a grant is an action by the Department which temporarily suspends program assistance under the project pending corrective action by the project sponsor or pending a decision to terminate the grant by the Department.

4. **Noncompliance**. In the event that the sponsor does not comply with provisions as set forth in the grant contract agreement and Procedural Guide regarding both active project compliance and compliance at previously assisted grant sites, the following actions may be taken:

1. The Department may withhold payment to the sponsor;
2. The Department may withhold action on pending projects proposed by the sponsor;
3. If the above actions do not achieve program compliance, the Department may involve the State Attorney General's Office, pursuant to Section 24 of the Parks & Wildlife Code.

5. **Termination by Sponsor**. The sponsor may unilaterally terminate the project or project element at any time prior to the first payment on the project. Such termination, however, may result in ineligibility for future grant assistance. After the initial payment, the project may be terminated, modified, or amended by the sponsor only by mutual agreement of the sponsor and the Department.

6. **Termination for Cause**. The Department may terminate any project in whole, or in part, at any time before the date of completion, whenever it is determined that the grantee has failed to comply with the conditions of the grant.

The Department will promptly notify the sponsor in writing of the determination and the reasons for termination, together with the effective date. Payments made to sponsors or recoveries by the Department under projects terminated for cause shall be in accord with the legal rights and liabilities of the parties.

7. **Termination for Convenience**. The Department or sponsor may terminate grants in whole, or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.

The sponsor shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Department may allow full credit to the sponsor for the state share of the non-cancelable obligations properly incurred by the project sponsor prior to termination.

8. **Grant Closeout**. The closeout of a grant is the process by which the Department determines that all applicable administrative actions and all required work on the project have been completed.

9. **Date of Completion**. The date of completion is the date when all work under a project is completed or the date in the grant award document, or any supplement or amendment thereto, on which program assistance ends, whichever comes first.

10. **Closeout procedures**. The following are minimum requirements for grant closeout:

A. The sponsor shall provide the Department within 120 days after the date of completion of the project all financial performance and other reports required as a condition of the grant. The Department may grant extensions when requested by the sponsor.

B. Before an acquisition or development project, but not a COOP project, is completely closed, the Department file must contain:

- (1) A final on-site inspection;
- (2) An accurate, signed and dated as-built or as-acquired site plan;
- (3) A list of facilities developed and/or acres acquired on a revised budget summary of project elements and costs.

C. Sponsors will comply with all audit procedures established in this Grants Manual. Copies of the audits will be furnished to the Department as prescribed in audit procedures.

D. The Department shall submit, after project closeout, all copies of significant maps and records to the State Archives Record Center for retention into perpetuity and for compliance with Chapter 640.1.2 of the Grants Manual.

POST-COMPLETION RESPONSIBILITIES/CONVERSION GUIDELINES

1. Operation and Maintenance. Property acquired or developed with program assistance shall be operated and maintained as follows:

- A. The property shall be maintained so as to appear attractive and inviting to the public.
- B. Sanitation and sanitary facilities shall be maintained in accordance with applicable health standards.
- C. Properties shall be kept reasonably safe for public use. Fire prevention, lifeguard, and similar activities as appropriate shall be maintained for proper public safety.
- D. Buildings, roads, trails, and other structures and improvements shall be kept in reasonable repair throughout their estimated lifetime to prevent undue deterioration and to encourage public use.
- E. The facility shall be kept open for public use at reasonable hours and times of the year, according to the type of area or facility.

2. Availability to Users.

A. Discrimination on the Basis of Race, Color, National Origin, Religion, or Sex. Under Title VI of the 1964 Civil Rights Act property acquired or developed with program assistance shall be open to entry and use by all persons regardless of race, color, or national origin, who are otherwise eligible. The Code of Federal Regulations, Title 43, Part 17, effectuates the provisions of Title VI. The prohibitions imposed by Title VI apply to park or recreation areas benefiting from state assistance and to any other recreation areas administered by the local agency receiving the assistance (see Chapter 650.9.). Discrimination is also prohibited on the basis of religion or sex.

B. Discrimination on the Basis of Residence. Discrimination on the basis of residence, including preferential reservation, membership or annual permit systems is prohibited with respect to program assisted property, except to the extent that reasonable differences in admission and other fees may be maintained on the basis of residence.

Fees charged to nonresidents cannot exceed twice that charged to residents. Where there is no charge for residents but a fee is charged to nonresidents, nonresident fees cannot exceed fees charged for residents at comparable state or local public facilities. Reservation, membership or annual permit systems available to residents must also be available to nonresidents and the period of availability must be the same for both residents and nonresidents.

These provisions apply only to the recreation areas described in the project agreement. Nonresident fishing and hunting license fees are excluded from these requirements.

C. Discrimination on the Basis of Handicap. Section 504 of the Rehabilitation Act of 1973 requires that no qualified person shall on the basis of handicap, be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from federal financial assistance. The Texas Architectural Barriers Act (codified as Article 9102, Texas Civil Statutes) and the Americans with Disabilities Act of 1990 (P.L. 100-336) simply references and reinforces these requirements for state assisted programs.

D. Reasonable Use Limitations. Project sponsors may impose reasonable limits on the type and extent of use of areas and facilities acquired or developed with program assistance when such a limitation is necessary for maintenance or preservation. Thus, limitations may be imposed on the numbers of persons using an area or facility or the type of users, such as "hunters only" or "hikers only." All limitations shall be in accord with the applicable grant agreement and amendments.

3. Conversion. Property acquired or developed with program assistance shall be retained and used for public recreation. Any property so acquired or developed shall not be wholly or partly converted to other than public recreation uses without the approval of the Department pursuant to Chapter 640.1.2 of the Grants Manual. Public recreation use on leased properties receiving program development assistance may cease when the terms of the lease expire. The Department has authority to disapprove conversion requests and/or to reject proposed property substitutions.

The conversion provisions of Chapter 640.1.2 apply to each area or facility for which program assistance is obtained, regardless of the extent of participation of the program in the assisted area or facility. Responsibility for compliance and enforcement of these provisions rests with the state and local sponsors. The responsibilities cited herein are applicable to the area depicted or otherwise described on the Chapter 640.1.2 boundary map and/or as described in other project documentation approved by the Department. In many instances, this mutually agreed to area exceeds that actually receiving program assistance so as to assure the protection of a viable recreation entity.

A. Conversion Applicability. Conversions generally occur in the following four situations:

- (1) Property interests are conveyed for non-public recreation uses.

(2) Non-recreation uses (public or private) are made of the project area, or a portion thereof.

(3) Non-eligible recreation facilities are developed within the project area without Department approval.

(4) Public recreation use of property acquired or developed with program assistance is terminated.

(5) Exceptions.

(a) Underground utility easements that do not have significant impacts upon the recreational utility of the park will not constitute a conversion.

(b) Proposals to construct public facilities, or to enclose program assisted or non-assisted recreation facilities without program assistance, where it can be shown that there is a gain or increased benefit to public recreational opportunity, will not constitute a conversion. Final review and approval of such cases shall be made on a case by case basis by the Department and in accordance with Chapter 640.3.5.

(c) Leased lands which are converted to non-public recreation use after the lease expires.

B. Prerequisites to Consideration of Conversions. Requests from the project sponsor for permission to convert program assisted properties in whole or in part to other than public recreation uses must be submitted by the sponsor in writing. The Department will consider conversion requests if the following prerequisites have been met:

(1) All practical alternatives to the conversion have been evaluated and rejected on a sound basis.

(2) The fair market value of the property to be converted has been established and the property proposed for substitution is of at least equal fair market value as established by a Department approved appraisal (prepared in accordance with uniform program appraisal standards) excluding the value of structures or facilities that will not directly enhance its recreation utility.

Generally, this will necessitate a review of appraisals prepared in accord with Chapter 675.2 for both the property proposed to be converted and that recommended for substitution.

(3) The property proposed for replacement is of reasonably equivalent usefulness and location as that being converted. The replacement property need not provide identical recreation experiences or be located at the same site, provided it is in a reasonably equivalent location. Generally, the replacement property should be administered by the same

political jurisdiction as the converted property. The Department will consider sponsor requests to change the project sponsor when it is determined that a different political jurisdiction can better carry out the objectives of the original project agreement. Equivalent usefulness and location will be determined based on the following criteria:

(a) Property to be converted must be evaluated in order to determine what recreation needs are being fulfilled by the facilities which exist and the types of recreation resources and opportunities available. The property being proposed for substitution must then be evaluated in a similar manner to determine if it will meet recreation needs which are at least like in magnitude and impact to the user community as the converted site.

(b) Replacement property need not necessarily be directly adjacent to or close by the converted site. This policy provides the administrative flexibility to determine location recognizing that the property should meet existing public recreation need. While generally this will involve the selection of a site serving the same community or area as the converted site, there may be exceptions. For example, if property being converted is in an area undergoing major demographic change and the area has no existing or anticipated future need for recreation, then the project sponsor should seek to locate the substitute area at another location within the jurisdiction.

(c) The acquisition of one parcel of land may be used in satisfaction of several approved conversions.

(4) The property proposed for substitution meets the eligibility requirements for program assisted acquisition (see Chapter 640.2.1). The replacement property must constitute or be part of a viable recreation area. Unless each of the following additional conditions (also see Chapter 670.3.4L) are met, land currently owned by another public agency may not be used as replacement land for land acquired as part of a program assisted project:

(a) The replacement land was not originally acquired by the sponsor or selling agency for recreation.

(b) The replacement land has not previously been dedicated or managed for recreational purposes while in public ownership.

(c) No federal or state assistance was provided in the replacement land's original acquisition.

(5) In the case of assisted sites which are partially rather than wholly converted, the impact of the converted portion on the remainder shall be considered. If such a conversion is approved, the unconverted area must remain viable for public recreation use, or be replaced as well.

(6) All necessary coordination with other federal and state agencies has been satisfactorily accomplished.

(7) The guidelines for environmental evaluation have been satisfactorily completed and considered by the Department during its review of the proposed action (see Chapter 650.2). In cases where the proposed conversion arises from another federal or state action, final review of the sponsor's proposal shall not occur until the Department is assured that all environmental review requirements related to that other action have been met.

(8) The restrictive leasing policy (Chapter 640.3.4.B.) does not relieve the sponsor of an existing project for the acquisition and/or development of a leasehold interest from fulfilling the conversion requirements of Chapter 640.1.2. of the Manual, including the provision of replacement land in the event a conversion is proposed or takes place during the term of the lease. In this instance, the conversion of the original lease can be replaced with a leasehold interest for a period of time which is not less than the time remaining on the original lease, and which fulfills the recreation commitment agreed to in the original lease agreement.

Generally, for existing projects which involve leases, the responsibility for retaining the property in recreation terminates at the end of the lease period. However, those lease agreements containing a renewal clause which can be exercised by the lessee must be reviewed to determine if and when the sponsor's compliance responsibility ceases.

(9) Staff consideration of the above points reveals no reason for disapproval and the project files are so documented.

(10) It should also be noted that the acquisition of one parcel of land may be used in satisfaction of several approved conversions. However, previously acquired property cannot be used to satisfy substitution requirements except in the case of development projects in Chapter 675.9.3B.4. noted above.

C. Amendments for Conversion. All conversions require amendments to the original project agreement. Therefore, amendment requests should be submitted concurrently with conversion requests or at such time as all details of the conversion have been worked out with the Department. Signed and dated (Chapter 640.1.2) project boundary maps shall be submitted with the amendment request (see Chapter 660.2.6.) to identify the changes to the original area caused by the proposed conversion and to establish a new project area pursuant to the substitution. Once the conversion has been approved, replacement property should be immediately acquired. Exceptions to this rule would occur only when it is not possible for replacement property to be identified prior to the sponsor's request for the conversion. It is, however, the Department's policy to avoid such situations if at all possible and to agree only if warranted by exceptional circumstances.

In such cases, an express commitment to satisfy Chapter 640.1.2. substitution requirements within a specified period, normally not to exceed one year following conversion approval, must be received from the sponsor. This will be in the form of an amendment to the project agreement.

D. Prerequisites to and criteria for consideration of project amendments for the construction of public facilities on program assisted sites. The Department will only consider requests to construct sponsor-funded public facilities if the following prerequisites and criteria have been met:

(1) All design and location alternatives have been adequately considered, documented and rejected on a sound basis.

(2) All applicable program requirements for approval and operations are met in accordance with Chapter 650.1.

(3) Use of the facility will be compatible with recreation and will increase recreation use; and, recreation use remains the overall primary function of the site.

(4) The proposed structure is compatible and significantly supportive of the recreation resources of the site, whether existing or planned. Examples of uses which would not ordinarily be approved include, but are not limited to, police stations, fire stations, professional sports facilities or commercial resort or other facilities which (a) are not accessible to the general public, or (b) require memberships, or (c) which, because of high user fees, have the effect of excluding elements of the public, or (d) which include office, residential or elaborate lodging facilities.

(5) Potential and future benefits to the total site's recreation utility must be identified in the proposal. Any costs or detriments should be documented and a net recreation benefit must result.

(6) The proposed facility must be under the control and tenure of the public agency which sponsors and administers the original recreation area.

(7) The proposal has been subjected to specific public review; public comment providing evidence of public support must accompany the proposal.

E. Procedures for Approval of Construction of a Public Facility. The project sponsor, following public review, shall submit the proposal to the Department for review and approval.

4. Obsolete Facilities, Changes of Use. Project sponsors are not required to continue operation of a particular recreation area or facility beyond its useful life. However, Chapter 640.1.2. of the Grants Manual requires that project

sponsors maintain the entire area defined in the project agreement in some form of public recreation use. Department approval must be obtained prior to any change from one eligible use to another when the proposed use would significantly contravene the original plans for the area.

Department approval is not necessarily required however, for each and every facility use change. A project area should be viewed in the context of overall use and should be monitored in this context. A change from a swimming pool with substantial recreational development to a less intense area of limited development such as a passive park, or vice versa, would, for example, require Department approval. Department approval must also be obtained for any underground utility installations for which an exception to conversion is requested under Chapter 675.9.3.A.5.

A. Notification of Obsolescence. To assure that facility changes (including granting of underground utility easements when they have no above ground impacts) do not significantly contravene the original project agreement, the department shall be notified in writing by the sponsor of all proposed changes in advance of their occurrence. The Department will then expedite a determination of whether a formal review and approval process will be required. Changes to other than public recreation use require Department approval and the substitution of replacement land in accordance with Chapter 675.9.3. of this Manual.

B. Determination That a Facility is Obsolete. Notwithstanding neglect or inadequate maintenance on the part of the project sponsor, a recreation area or facility may be determined to be obsolete if:

- (1) Reasonable maintenance and repairs are not sufficient to keep the recreation area or facility operating;
- (2) Changing recreation needs dictate a change in the type of facilities provided;
- (3) Park operating practices dictate a change in the type of facilities required; or
- (4) The recreation area or facility is destroyed by fire, natural disaster, or vandalism.

C. Sponsor Responsibilities. Project sponsors may permit the use of a facility to be discontinued or allow a particular type of recreation use of the program assisted area to be changed provided that the project record maintained by the Department is documented by the sponsor with a justification statement that the Department concurs in the change, and that the procedures required in 675.9.4.A above are adhered to. If in the judgment of the Department, the facility is needed and was lost through neglect or inadequate maintenance, then replacement facilities must be provided at the current value of the original investment.

D. Additional Program Assistance. Program assistance may be provided to renovate recreation facilities which have previously received program assistance if the Department determines that the renovation is not required as a result of neglect or inadequate maintenance and the Department documents the project record to that effect.

5. Post-Completion Inspections. In order to determine whether properties acquired or developed with program assistance are being retained and used for recreation purposes in accordance with the project agreement and other applicable program requirements, a Department compliance inspection will be made prior to project close-out, and attempted at least once every five years thereafter. These inspections may be made by Department personnel or by the grant sponsor through a self-certification process as devised and administered by the Department.

The following points should be taken into consideration during the inspection of properties that have been developed for public use:

A. Retention and Use. Is the property being used for the purposes intended?

B. Appearance. Is the property attractive and inviting to the public?

C. Maintenance. Is upkeep and repair of structures and improvements adequate? Is there evidence of poor workmanship or use of inferior quality materials or construction? Is vandalism a problem?

D. Management. Does staffing and servicing of facilities appear adequate?

E. Availability. Is there evidence of discrimination? Is the property readily accessible and open to the public during reasonable hours and times of the year?

F. Environment. Is the quality of the area being maintained?

G. Signage. Is the area properly signed to allow for user information and safety, and proper acknowledgement of the program assistance?

H. Interim Use. Where lands have been acquired but not yet developed, the inspection should determine whether the interim use being made of the property, if any, is in compliance with program guidelines.

6. Applicability. The rules given in this chapter apply to each area or facility for which program assistance is obtained, regardless of the extent of program assistance in that area or facility. That is, in cases where assistance is provided only for an acquisition, the entire park or recreational area involved, including developments on the lands so acquired, are subject to the provisions of this chapter. Where development assistance is given, the lands of the park or recreation area identified on the project boundary map are subject to this chapter.

7. Penalties. Failure to comply with the provisions of this chapter shall be considered cause for the Department to:

A. Withhold future payments being made to the sponsor on current projects of the sponsor who is responsible for the infraction in question; or

B. Withhold action on all pending projects of the sponsor who is responsible for the infraction in question; or

C. Deem the sponsor to be ineligible to apply for grant assistance for a period of time.

D. If the actions outlined in 7.A. and 7.B. above do not achieve program compliance, the Department may involve the State Attorney General's Office, pursuant to Section 24.011 of the Parks & Wildlife Code (see Chapter 600.2.).

8. Availability for Inspection. Properties acquired or developed with program assistance shall be available for inspection by Department representatives.