

SMARTLINK payment management system. Grantees may request an advance of no more than 25 percent of the total grant if the advance is documented in the grant agreement.

5. What Reporting Requirements Must Tribes Meet Once Funds Are Obligated Under a TLIP Grant Agreement?

Quarterly Financial Status Reports (SF-272) which can be found at <http://www.whitehouse.gov/omb/grants/sf272.pdf>, must be submitted electronically. A final Financial Status Report (SF-269) which can be found at <http://www.whitehouse.gov/omb/grants/sf269.pdf>, will be due to the Regional Office within 90 days of the grant agreement ending date. An annual performance report—including a list of project accomplishments relative to those which were planned in the grant agreement—will also be required within 90 days of the end of each 12-month period. The effectiveness of each tribe's program, as reported in the annual performance reports, will be an important factor considered during the grant award selection process in subsequent years.

6. Is There a Limitation on the Amount of Funds That May Be Used for Administrative Costs?

Yes, no more than 12 percent of program funds can be used for staff and related administrative costs. If more than 12 percent is necessary to properly and efficiently operate the program, a waiver of this limitation may be provided by the Regional Director based on a written justification explaining why such a waiver is necessary.

V. Procedural Requirements

A. Regulatory Planning and Review (Executive Order 12866)

This policy document identifies proposed eligibility criteria and selection factors that may be used to award grants under TLIP. The Service developed this policy to ensure consistent and adequate evaluation of grant proposals that are voluntarily submitted and to help prospective applicants understand how the Service will award grants. According to Executive Order 12866, this policy document is significant and has been reviewed by the Office of Management and Budget (OMB) in accordance with the four criteria discussed below.

1. TLIP will not have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, jobs, the environment, public health or safety, or State or local

communities. The Department of the Interior and Related Agencies Appropriations Act for Fiscal Year (FY) 2002 allowed the Secretary to create TLIP. In addition, grants that are funded will generate other, secondary benefits, including benefits to natural systems (e.g., air, water) and local economies. All of these benefits are widely distributed and are not likely to be significant in any single location. It is likely that some residents where projects are initiated will experience some level of benefit, but quantifying these effects at this time is not possible. We do not expect the sum of all the benefits from this program, however, to have an annual effect on the economy of \$100 million or more.

2. We do not believe the TLIP would create inconsistencies with other agencies' actions. Congress has given the Service the responsibility to administer this program.

3. As a new grant program, the TLIP would not materially alter the budgetary impact of entitlements, user fees, loan programs, or the rights and obligations of their recipients. This policy document establishes a new grant program, authorized by Pub. L. 107-63, which should make greater resources available to applicants. The submission of grant proposals is completely voluntary, but necessary to receive benefits. When an applicant decides to submit a grant proposal, the proposed eligibility criteria and selection factors identified in this policy can be construed as requirements placed on the awarding of the grants. Additionally, we will place further requirements on grantees who are selected to receive funding under the TLIP program in order to obtain and retain the benefit they are seeking. These requirements include specific Federal financial management and reporting requirements as well as specific habitat improvements or other management activities described in the applicant's grant proposal.

4. OMB has determined that this policy raises novel legal or policy issues, and, as a result, this document has undergone OMB review.

B. Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*)

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, as amended, whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (e.g., small businesses, small organizations, and small government

jurisdictions). Indian tribes are not considered to be small entities for purposes of the Act and, consequently, no regulatory flexibility analysis has been done.

C. Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996

This implementation guidance is not considered a major rule under the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (5 U.S.C. 804(2)) because it does not have an annual effect on the economy of \$100 million or more. The yearly amount of TLIP program funds is limited to \$3,974,000.

This implementation guidance will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Actions under this implementation guidance will distribute Federal funds to Indian tribal governments and tribal entities for purposes consistent with activities similar to other Service programs designed to enable landowners to protect and conserve species as may be protected under the Endangered Species Act and the habitat that supports such species.

This implementation guidance does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

D. Unfunded Mandates Reform Act

This implementation guidance would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4, March 22, 1995, 109 Stat. 48). This guidance will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year (2 U.S.C. 1532).

E. Takings Implication Assessment (Executive Order 12630)

This implementation guidance does not have significant "takings" implications. This implementation guidance does not pertain to "taking" of private property interests, and its impact on private property would be an incentive that is totally landowner driven.

F. Executive Order 13211—Energy Effects

On May 18, 2001, the President issued Executive Order 13211, which speaks to regulations that significantly affect