

Under the heading *Commitment*, the Service asks to what extent the applicant displays commitment to the proposed project through in-kind or matching funds. Sixteen respondents asked that the Service remove or de-emphasize this criterion, and two agreed with it as proposed.

Response: Although Congress did not include a matching requirement for the TWG program, the Service believes that tribes making a commitment in their proposals to provide a match should be rewarded in the competitive ranking process. In addition, the Service will accept other forms of support from the tribes to meet the match requirement including cash, in-kind support, equipment, and materials. Matching contributions are non-Federal (tribal or partner) cash or in-kind contributions. Funds derived from Pub. L. 93-638 contracts are allowable as matching funds.

Eighteen comments on the *Partnerships* criterion asked that the Service remove or de-emphasize this criterion, and one agreed with it as proposed. One suggested that letters of support should be considered if funds for a match are not available, and one advocated for an allowance for "partnerships" that includes non-Federal partners.

Response: Partnerships are an increasingly essential tool in the management of natural resources. The Service believes that tribes developing partnerships with other organizations to implement projects under TWG should be rewarded in the proposal ranking process. The Service agrees that this criterion should be de-emphasized and has reduced the relative value of this category. Tribes are especially encouraged to partner with non-Federal entities in order to better leverage Federal dollars and provide greater benefit to Federal taxpayers. In the final guidance, *Partnerships* and *Commitment* criteria have been combined into a new category, *Contributions and Partnerships*.

Two comments asked that the Service remove, and six asked that the Service de-emphasize, the proposed *Administrative Costs* criterion. One agreed with it as proposed. Seven comments advocated not considering tribal indirect cost rate as administrative cost, with one seeking to place a 15 percent maximum allowable for indirect cost rates. One comment suggested a limit on allowable administrative costs. Eight comments advocated making an allowance for staff or seasonal employees by removing the word "staff" from the proposed language.

Response: *Administrative Costs* is eliminated from the ranking criteria. We have, however, limited the total amount of the grant that can be used for administration costs to 12 percent unless a waiver is granted by the Regional Director.

Part II., Proposed Implementation Guidelines, section D., TWG Operations and Management (1), allows that TWG funds can be used to cover the costs of Conservation Law Enforcement. The Service received no comments.

Part II., Proposed Implementation Guidelines, section D., TWG Operations and Management (2), broadly outlines the activities that are eligible for funding under TWG. Three comments proposed language to better define wildlife, conservation, Tribal Fish and Game Department or Tribal Fish and Wildlife Department, and wildlife-restoration project. The respondent advocated for inserting the following: "Priority for funding from the TWG Program shall be for those species with the greatest conservation need identified by the tribe." Another comment suggested that the Service better define the purpose of the TWG program.

Response: The Service appreciates these thorough and constructive comments, and has used them in revising the program guidance and in developing a *Definitions* section. The Service agrees with and has incorporated the proposed statement.

As defined by Congress, the intent of the TWG program is "for the development and implementation of programs for the benefit of wildlife and their habitat, including species that are not hunted or fished."

One comment suggested that the Service consider a cap on land purchase and that projects with land acquisitions in the match category should be encouraged. One comment proposed that research projects should receive equal consideration in the ranking process. One requested clarification on whether TWG funds can be used for conducting archeological surveys by Tribal Historic Preservation Officers to comply with the NHPA for a TWG project; one advocated for habitat improvement projects; and one advocated "culturally acceptable projects."

Response: Land acquisition is an eligible activity under TWG. The Service has capped all projects under TWG, including lands acquired with TWG funds, at \$250,000. The associated value of certain land acquisitions can be used as match to aid in the scoring of the proposal.

Research, habitat improvement, and "culturally acceptable" projects are

eligible for funding given their relative applicability to the guidelines established for TWG.

Under Section 106 of the National Historic Preservation Act, projects must comply with the Act. If it is known before project implementation that an archaeological investigation is warranted, then the cost for such investigation or survey can be included in the overall project proposal when submitted to the Service.

Part II., Proposed Implementation Guidelines, section D., TWG Operations and Management (3), proposes that TWG funds can be used to cover the costs of environmental review, habitat evaluation, permit review, and other environmental compliance activities associated with a TWG project, provided they are included in the budget and discussed in the Program and Budget Narratives. One comment agreed with this proposed explanation, and two asked that the allowable activities further specify that TWG funds may be used to address the costs of adhering to tribal environmental compliance activities.

Response: TWG funds can be used to cover the costs of environmental review, habitat evaluation, permit review, and other environmental compliance activities associated with a TWG project provided they are included in the budget and discussed in the Program and Budget Narratives of the project proposal.

Part II., Proposed Implementation Guidelines, section D., TWG Operations and Management (4), defines which activities are not allowable under TWG. It states that a proposal may not include activities required to comply with a Biological Opinion or activities required to comply with a permit (e.g., mitigation activities). However, a proposal can include activities that implement conservation recommendations. Several comments said that no TWG funds should be diverted to any nontribal mandates, court directives, or Federal activities required to uphold the trust responsibility and suggested that this section be strengthened by indicating so. Two comments agreed with this section, with the inclusion of "court directive and Federal agency mandate or directive" to those activities that cannot be included in a proposal. Some respondents agreed that mitigation under a Biological Opinion should not be funded through TWG. Recommended language from one comment: "A proposal cannot include activities required to comply with a BO, court directive, Federal agency mandate or directive, or include activities required to comply with a permit (mitigation