

responsibilities). However, a proposal can include activities to implement conservation recommendations." One comment asked that "Biological Opinion" be further defined.

Response: All TWG funds will be awarded to tribes and will not be diverted to any nontribal mandates, court directives, or Federal activities required to uphold the trust responsibility. The Service appreciates the proposed language but disagrees with the inclusion of "court directive and Federal agency mandate or directive" as excluded activities in a grant project, because doing so would place additional restrictions on tribal proposals. "Biological Opinion" refers to Biological Opinions with regard to the Endangered Species Act and this is clarified in the "Definitions" section.

Part II., Proposed Implementation Guidelines, section D., TWG Operations and Management (5), states that TWG is not a continuous revenue source, and one comment advocated for making the TWG program a continuing source for funding.

Response: Because TWG is an annual Congressional allocation, it is subject to further actions by Congress and cannot be considered a continuing source of funding.

Part II., Proposed Implementation Guidelines, section D., TWG Operations and Management (6), stated that TWG funds cannot be held in an interest-bearing account. Two comments suggested otherwise.

Response: Federal law allows funds to be held in an interest-bearing account although any interest earned on such funds in excess of \$100 must be returned to the fiscally responsible Federal agency (43 CFR 12.64).

Part II., Proposed Implementation Guidelines, section E., Grant Award Procedures (1), defines which additional information must be included by the grantees once awards are announced. The Service received no comments.

Part II., Proposed Implementation Guidelines, section E., Grant Award Procedures (2), states that the lead contact after award announcements should be the Native American Liaison in the grantee's respective Region. One comment advocated for a contact in the Service's Division of Federal Aid to be identified as the initial contact.

Response: The Native American Liaison will be the lead contact for technical implementation assistance, and the Division of Federal Aid will serve as the principle financial contact.

Part II., Proposed Implementation Guidelines, section E., Grant Award Procedures (3), stated that the Service will award grants within 30 days of the

recommendations provided by the national review panel. One comment suggested that a timeline be provided for acceptance and selection of awards, and one comment simply agreed with the stipulated language.

Response: A timeline for acceptance and selection of awards is included in the Grant Application Package.

Part II., Proposed Implementation Guidelines, section E., Grant Award Procedures (4), states that funds will be disbursed, subsequent to funding approval, through the Department of Health and Human Services' SMARTLINK electronic funds transfer system (EFT). And, that in the instance of demonstrated hardship or need, grantees may request up to 25 percent of the grant award.

Four comments stated that if the Service has the ability to advance 25 percent of the project funds up front, given demonstrated hardship or need, then all grantees should be eligible without demonstrating hardship or need. Two comments advocated for increasing the initial draw down, one suggests 40 percent and the other is nonspecific.

Response: The Service will advance up to 25 percent of the total award upon request by the tribe.

Four disagreed with the proposed reimbursable mechanism, saying it presents an undue burden on tribes, and asked to have access to funds quarterly or as a lump sum transfer at the onset of a project. One comment asked if all tribes are electronic funds transfer (EFT) compliant.

Response: Further clarification of the proposed EFT is necessary to explain that funds will be "reimbursed" as needed rather than upon receipt of proof of expenditure. We feel that this does not place a financial burden on the tribes. All tribes are capable of EFT. As a grantee incurs expenses, funds to pay these can be drawn down via SMARTLINK.

Part II., Proposed Implementation Guidelines, section E., Grant Award Procedures (5), addresses the reporting requirements tribes must meet once funds are obligated under a TWG grant agreement. One comment suggested that language be included to indicate that tribes will be obligated to comply with NEPA, ESA, National Historic Preservation Act, and other relevant Acts. Another comment suggested that the benefits and outcomes of the TWG program be reported to Congress.

Response: TWG projects are subject to legal requirements of Federal regulatory Acts in the context of established Federal/Tribal protocol.

Response: A summary of benefits and outcomes of the TWG program will be made available to interested Congressional representatives.

Part III., Procedural Requirements, sections A., Regulatory Planning and Review; B., Regulatory Flexibility Act; C., Small Business Regulatory Enforcement Fairness Act; D., Unfunded Mandates Reform Act; E., Takings Implications Order; F., Energy Effects; G., Federalism; and H., Civil Justice Reform, received no comments, although two pertinent general comments suggested that a section be added to clarify how the Freedom of Information Act will apply to information submitted by the tribes.

Response: The Service will work with the tribes to ensure that sensitive information is protected.

Part III., Procedural Requirements, section I. National Environmental Policy Act, drew one comment asking that the Service better determine what is meant by the phrase "Service will ensure (that grants funded through TWG are in compliance with the National Environmental Policy Act)" in the proposed guidelines.

Response: A completed NEPA Checklist and appropriate environmental information will be required in the Grant Narrative from the grantee for review and concurrence by the Service.

Part III., Procedural Requirements, section J., Consultation and Coordination with Indian Tribal Governments, and K., Paperwork Reduction Act were not commented upon.

Part IV., Native American Liaisons for the Fish and Wildlife Service, was not commented upon.

General Comments: We received several comments that did not readily fit into the above categories. The Service has responded to these comments below.

1. Three comments asked that the Service distinguish between treaty and nontreaty rights.

Response: The Service recognizes that treaty rights involve unique responsibilities defining specific rights to treaty-recognized tribes and will work to address them where appropriate within the grant processes.

2. One respondent advocated for the inclusion of nontrust tribal lands in TWG projects.

Response: This is an allowable request under TWG.

3. Four general comments stated that there should be no Service administrative cost associated with implementation of this program's \$5 million allocation.