

U.S. Fish and Wildlife Service
General Award Terms and Conditions
Effective Date: May 14, 2022

Recipients of U.S. Fish and Wildlife Service (Service) grant and cooperative agreement awards (hereafter referred to as “awards”) are subject to the terms and conditions incorporated into their Notice of Award either by direct citation or by reference to Federal regulations; program legislation or regulation; and special award terms and conditions. Award terms and conditions are applicable unless and until the Service removes or revises them in written notice to the recipient. The Service will make such changes by issuing a written notice that describes the change and provides the effective date.

Recipients indicate their acceptance of an award by starting work, drawing down funds, or accepting the award via electronic means. Recipient acceptance of an award carries with it the responsibility to be aware of and comply with all terms and conditions applicable to the award. Recipients are responsible for ensuring that their subrecipients and contractors are aware of and comply with applicable award statutes, regulations, and terms and conditions. Recipient failure to comply with award terms and conditions can result in the Service taking one or more of the remedies and actions described in [2 CFR §§200.339—343](#).

Administrative Requirements, Cost Principles, and Audit Requirements

The requirements in this section do not apply to individuals receiving an award separate from any business or organization they may own or operate. The Service will describe all administrative and cost requirements and restrictions for awards to individuals in their Notice of Award. The requirements in this section apply to for-profit entities only when the Service specifically incorporates them by reference in a Notice of Award.

The requirements in this section apply to foreign public entities and foreign organizations, unless otherwise described in this section. Foreign public entities and organizations must comply with any special considerations and requirements specific to their entity type, unless otherwise noted within this document. Foreign public entities must comply with those specific to states. Foreign higher education institutions must comply with those specific to Institutions of Higher Education.

Administrative Requirements

[2 CFR Part 200, Subparts A—D](#), as supplemented by [2 CFR Part 1402—Financial Assistance Interior Regulation](#) and including the provisions in 2 CFR §1402.112 and §1402.315. Foreign public entities must follow payment procedures in 2 CFR §200.305(b). The requirements in 2 CFR §§200.321—323 do not apply to foreign public entities or foreign organizations.

[Appendix XII to 2 CFR Part 200—Award Term and Condition for Recipient Integrity and Performance Matters](#). Applies to awards with a total Federal share of more than \$500,000, except for awards to foreign public entities.

Cost Principles

[2 CFR Part 200, Subpart E—Cost Principles](#). These cost principles apply to all domestic and foreign non-Federal entities except non-profit organizations identified as exempt in Appendix VIII to 2 CFR Part 200. The Authorized Representative's signature on a standard application form submitted to the Service represents their certification that the entity's financial system meets 2 CFR §200.302 Financial management requirements. The non-Federal entity's financial system must be sufficient to:

- 1) Permit the preparation of required reports,
- 2) Trace funds to a level of expenditures adequate to establish that the entity has used such funds per Federal statutes, regulations, and terms and conditions of the Federal award,
- 3) Provide for the requirements in 2 CFR §200.302(b), and
- 4) Comply with §§200.334 Retention requirements for records, 200.335 Requests for transfer of records, 200.336 Methods for collection, transmission, and storage of information, and 200.337 Access to records.

[48 CFR Subpart 31.2—Contracts with Commercial Organizations](#). These cost principles apply to non-profit organizations identified in Appendix VIII to 2 CFR Part 200. They also apply to for-profit entities when specified in their Notice of Award.

Indirect Cost Proposals

- Institutions of Higher Education: [Appendix III to 2 CFR Part 200](#)
- Nonprofit organizations: [Appendix IV to 2 CFR Part 200](#)
- States, local government agencies, and Indian tribes: [Appendix VII to 2 CFR Part 200](#)
- For-profit entities: Contact the [DOI National Business Center, Office of Indirect Cost Rate Services](#)

See also the DOI negotiated indirect cost rate deviation policies at [2 CFR §1402.414](#).

Audit Requirements

[2 CFR Part 200, Subpart F—Audit Requirements](#). These audit requirements apply to U.S. states, local governments, Indian tribes, institutions of higher education, and nonprofit organizations. They do not apply to foreign public entities, foreign organizations, or for-profit entities.

Buy America Provision for Infrastructure

Required Use of American Iron, Steel, Manufactured Products, and Construction Materials

As required by Section 70914 of the Infrastructure Investment and Jobs Act ([Pub. L. 117-58](#)), on or after May 14, 2022, none of the funds under a federal award that are part of a Federal financial assistance program for infrastructure may be obligated for a project unless all the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. Recipients must include the requirements in this section all subawards, including all contracts and purchase orders for work or products under this program.

None of the funds provided under this award may be used for a project for infrastructure unless:

1. All iron and steel used in the project are produced in the United States. This means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States,

2. All manufactured products used in the project are produced in the United States. This means the manufactured product was manufactured in the United States, and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation, and
3. all construction materials are manufactured in the United States. This means that all manufacturing processes for the construction material occurred in the United States.

This Buy America preference only applies to articles, materials, and supplies consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

For more information, visit the [Department of the Interior Buy America web page](#) and the [Office of Management and Budget Made in America web page](#).

Waivers

There may be instances where an award qualifies, in whole or in part, for an existing Department of the Interior (Department) general applicability waiver as described on the [Department's General Applicability Waivers web page](#). If the specific financial assistance agreement, infrastructure project, or non-domestic materials meets the criteria of an existing general applicability waiver within the limitations defined within the waiver, the Recipient does not need to request a separate waiver for non-domestic materials.

When necessary, recipients may apply for, and the Department may grant, a waiver from these requirements, subject to review by the Made in America Office. The Department may waive the application of the domestic content procurement preference in any case in which it is determined that one of the below circumstances applies:

1. *Non-availability Waiver*: the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality,
2. *Unreasonable Cost Waiver*: the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent, or
3. *Public Interest Waiver*: applying the domestic content procurement preference would be inconsistent with the public interest.

If a general applicability waiver does not already apply, and the Recipient believes that one of the above circumstances applies to an award, the Recipient may submit a request to waive the application of the domestic content procurement preference.

Waiver Submission Instructions

Recipients must submit all waiver requests to the Service in writing. E-mail all waiver requests to fwhqfasupport@fws.gov. Please use the subject line: "Buy America Waiver Request". Include the following information with each waiver request:

1. Type of waiver requested (non-availability, unreasonable cost, or public interest)
2. Requesting entity name and Unique Entity Identifier (UEI)
3. Awarding bureau: U.S. Fish and Wildlife Service
4. Awarding program Assistance Listing number and title (Notice of Award, Block 2)
5. Project title (Notice of Award, Block 8)
6. Federal Award Identification Number (Notice of Award, Block 4)
7. Federal award amount (Notice of Award, Block 11)
8. Total infrastructure costs, to the extent known (federal and non-federal funds)
9. Infrastructure project description and location, to the extent known
10. List of iron or steel item(s), manufactured goods, and construction material(s) the recipient seeks to waive from Buy America requirements. Include the name, cost, countries of origin, if known, and relevant [Product Service Code](#) or [NAICS code](#) for each.
11. A certification that the Recipient made a good faith effort to solicit bids for domestic products supported by terms included in requests for proposals, contracts, and nonproprietary communications with the prime contractor.
12. A statement of waiver justification, including a description of the Recipient's efforts (e.g., market research, industry outreach) to avoid the need for a waiver. Such a justification may cite, if applicable, the absence of any Buy America-compliant bids received in response to a solicitation.
13. Anticipated impact if no waiver is issued

Do not include any Privacy Act information, sensitive data, or proprietary information with the waiver request.

Waiver Review Process

The Department will post waiver requests to their [Buy America web page](#) for the required 15-day public comment period. The Made in America Office will also review all waiver requests. The Department will post approved waivers on their [Approved Waivers web page](#). The Service will notify Recipients of their waiver request determination in writing by e-mail.

Definitions

Construction materials includes an article, material, or supply that is or consists primarily of:

- non-ferrous metals,
- plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables),
- glass (including optic glass),
- lumber, or
- drywall.

Construction materials does **not** include cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives.

Domestic content procurement preference means all iron and steel used in the project are produced in the United States; the manufactured products used in the project are produced in the United States; or the construction materials used in the project are produced in the United States.

Infrastructure includes, at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. Infrastructure includes facilities that generate, transport, and distribute energy.

Project means the construction, alteration, maintenance, or repair of infrastructure in the United States.

Statutory and National Policy Requirements

The following statutory and national policy requirements apply to all recipients, including individuals, for-profits, foreign public entities, and foreign organizations, unless otherwise described in this section.

[Appendix A to 2 CFR Part 25—Universal Identifier and System for Award Management](#). Does not apply to individuals or any entity with a qualifying condition and exempted by the awarding bureau or office prior to award per 2 CFR §25.110(c)(2) and bureau or office policy.

[Appendix A to 2 CFR Part 170—Award term for reporting subaward and executive compensation](#). Does not apply to any individual receiving a Federal award as a natural person. See 2 CFR 170 for other exceptions.

[2 CFR §175.15—Award Term for Trafficking in Persons](#). Applies to private entities as defined in 2 CFR §175.25(d), and to awards to States, local governments, Indian tribes, or foreign public entities, if the recipient could provide funding under the award to a private entity subrecipient.

[2 CFR Part 1400—Nonprocurement Debarment and Suspension](#). Recipients are responsible for ensuring they do not enter any covered transaction with an excluded or disqualified participant or principal. See also [2 CFR Part 180—OMB Guidelines to Agencies on Governmentwide Debarment and Suspension \(Nonprocurement\)](#).

[2 CFR Part 1401—Requirements for Drug-Free Workplace \(Financial Assistance\)](#). Does not apply to foreign public entities or foreign organizations.

[43 CFR Part 18—New Restrictions on Lobbying](#). The Authorized Representative's signature on a standard application form submitted to a DOI bureau or office certifies to the statements in [Appendix A to 43 CFR Part 18—Certification Regarding Lobbying](#). These restrictions do not apply to such Indian tribe, tribal organization, or any other Indian organization expenditures specifically permitted by other Federal law.

[41 U.S.C. §6306—Prohibition on Members of Congress Making contracts with Federal Government](#)

National Policy Encouragements

[E. O. 13043—Increasing Seat Belt Use in the United States](#). Encourages non-Federal entities to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-

owned, rented, or personally owned vehicles. The Service encourages individuals to use seat belts while driving in connection with award activities.

[E. O. 13513—Federal Leadership on Reducing Text Messaging While Driving](#). Encourages non-Federal entities to adopt and enforce policies that ban text messaging while driving, including conducting initiatives of the type described in section 3(a) of the order. The Service encourages individuals to not text message while driving in connection with award activities.