to prepare Statements of Energy Effects when undertaking certain actions. This implementation guidance is not expected to significantly affect energy supplies, distribution, or use. Therefore, no Statement of Energy Effects has been prepared.

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This implementation guidance does not have significant Federalism effects because it pertains solely to Federal-tribal relations and will not interfere with the roles, rights, and responsibilities of States.

H. Civil Justice Reform (Executive Order 12988)

This implementation guidance does not unduly burden the judicial system and meets the applicable standards provided in sections 3(a) and 3(b)(2) of the Executive Order 12988.

I. National Environmental Policy Act (NEPA)

This implementation guidance does not constitute a Federal action significantly affecting the quality of the human environment. The Service has determined that the issuance of the implementation guidance is categorically excluded under the Department of the Interior's NEPA procedures in 516 DM 2, appendix 1, and 516 DM 6, appendix 1. The Service will be responsible for ensuring that grants funded through TLIP are in compliance with NEPA.

J. Consultation and Coordination With Indian Tribal Governments (Executive Order 13175).

Pursuant to Executive Order 13175 of November 6, 2000, ''Consultation and Coordination with Indian Tribal Governments,'' we have committed to consulting with tribal representatives in the finalization of the implementation guidance for the TLIP. We have evaluated any potential effects on federally recognized Indian Tribes and have determined that there are no potential adverse effects. This guidance expands tribal participation in Service programs and allows for opportunities for tribal wildlife management and conservation initiatives across Indian Country. We will continue to consult with tribal governments and tribal entities as a part of the policymaking process, and beyond in furthering our mutual goals for the TLIP.

K. Paperwork Reduction Act (44 U.S.C. 3501

The information collection requirements of this program will be largely met through the Federal Assistance Grants Application Booklet. Federal Assistance has OMB approval for this information collection under Control Number 1018–1019. This approval applies to grants managed by the Division of Federal Assistance, even if these grants are for other Divisions of the Service. We are collecting this information relevant to the eligibility, substantiality, relative value, and budget information from applicants in order to make awards of grants under these programs. We are collecting financial and performance information to track costs and accomplishments of these grant programs. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Dated: March 12, 2004.

Paul Hoffman,

Acting Assistant Secretary, Fish and Wildlife and Parks.

[FR Doc. 04–6291 Filed 3–22–04; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Fiscal Year 2004 Tribal Wildlife Grants; Request for Grant Proposals

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of request for proposals; final policy, and implementation guidelines.

SUMMARY: We, the Fish and Wildlife Service (Service) are soliciting project proposals for Federal assistance under the Tribal Wildlife Grants program (TWG). This document describes how you can apply for funding under the TWG and how we will determine which project proposals will be funded. The Department of the Interior and Related Agencies Appropriations Act for Fiscal year (FY) 2004 authorized an appropriation of $69,137,000 for wildlife conservation grants to States and to the District of Columbia, U.S. Territories, and Tribes under provisions of the Fish and Wildlife Act of 1956 and the Fish and Wildlife Coordination Act, for the development and implementation of programs for the benefit of wildlife and their habitat, including species that are not hunted or fished. The Act further specified that the Service use $5,926,000 of the funds for a competitive grant program available to federally recognized Indian Tribes. this allows the Secretary, through the Director of the Service, to manage a separate Tribal grant program not subject to the provisions of the formula-based State Wildlife Grants program, or other requirements of the State Wildlife Grants portion of Pub. L. 107–63. The Service is providing implementation guidance for this $5,926,000 TWG program.

DATES: Project proposals must be postmarked by May 24,2004, and submitted to the appropriate Regional Office (*see* Table 1 in **ADDRESSES**).

ADDRESSES: For information regarding collection requirements, applicants should contact the Native American Liaison in the Service's Regional office for the State in which the proposed project would occur. The contact information for each Regional Office is listed in Table 1 below. Information on the TWG is also available from the U.S. Fish and Wildlife Service, Office of the Native American Liaison, 1849 C Street, NW., Mail Stop 3251, Washington, DC 20240, fax (202) 501–3524 and electronically at *http://grants.fws.gov/tribal.html.*

Send your project proposal to the Service's Regional office for the State in which the proposed project would occur (*see* Table 1 under **ADDRESSES**). You must submit one original and two copies of the complete proposal. We will not accept facsimile project proposals.

TABLE 1.—WHERE TO SEND PROJECT PROPOSALS AND LIST OF REGIONAL CONTACTS

Service region	States where the project will occur	Where to send your project proposal	Regional Native American liaison and phone number
Region 1	Hawaii, Idaho, Oregon, Washington, Nevada, and California.	Regional Director, U.S. Fish and Wildlife Service, Eastside Federal Complex, 911 N.E. 11th Avenue, Portland, OR 97232–4181.	Scott L. Aikin, (503) 231–6123.

TABLE 1.—WHERE TO SEND PROJECT PROPOSALS AND LIST OF REGIONAL CONTACTS

Service region	States where the project will occur	Where to send your project proposal	Regional Native American liaison and phone number
Region 2	Arizona, New Mexico, Oklahoma, and Texas	Regional Director, U.S. Fish and Wildlife Service, 500 Gold Avenue, SW., P.O. Box 1306, Albuquerque, NM 87103–1306.	John Antonio, (505) 248–6810.
Region 3	Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin.	Regional Director, U.S. Fish and Wildlife Service, 1 Federal Drive, Fort Snelling, MN 55111–4080.	John Leonard, (612) 713–5108.
Region 4	Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee.	Regional Director, U.S. Fish and Wildlife Service, 1875 Century Blvd., Rm. 410, Atlanta, GA 30345.	James D. Brown, (404) 679–7125.
Region 5	Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia.	Regional Director, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, MA 01035–9589.	D.J. Monette, (413) 253–8662.
Region 6	Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming.	Regional Director, U.S. Fish and Wildlife Service, PO Box 25486, Denver Federal Center, Denver, CO 80225–0486.	David Redhorse, (303) 236–4575.
Region 7	Alaska	Regional Director, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, AK 99503–6199.	Tony DeGange, (907) 786–3492.

FOR FURTHER INFORMATION CONTACT: For further information, contact the Native American Liaison in the appropriate Regional Office (*see* Table 1 under **ADDRESSES**) or Patrick Durham, Office of the Native American Liaison, U.S. Fish and Wildlife Service, 1849 C Street, Mail Stop 3012 MIB, Washington, DC 20240, 202/208–4133.

SUPPLEMENTARY INFORMATION:

I. Request for Proposals

The Service invites submission of grant proposals from federally recognized Indian tribal governments (including Alaska Native Villages) for the development and implementation of programs for the benefit of wildlife and their habitat, including species that are not hunted or fished. This program supports the efforts of federally recognized Tribal governments in projects that develop or augment the capacity to manage, conserve, or protect fish and wildlife resources through the provision of funding and technical support.

II. Definitions

The following definitions apply:

1. *Conservation Recommendation*—The Fish and Wildlife Service's non-binding suggestions resulting from formal or informal consultation, under the Endangered Species Act, that: (1) Identify discretionary measures a Federal agency can take to minimize or avoid the adverse effects of a proposed action on listed or candidate species, or designated critical habitat; (2) identify studies, monitoring, or research to develop new information on listed or candidate species, or designated critical habitat; and (3) include suggestions on how an agency can assist species conservation as part of their action and in furtherance of its authorities under Section 7(a)(1) of the Endangered Species Act.

2. *Biological Opinion*—Any document that includes: (1) The opinion of the Fish and Wildlife Service or the National Marine Fisheries Service as to whether or not a Federal action is likely to jeopardize the continued existence of listed species, or result in the destruction or adverse modification of designated critical habitat; (2) a summary of the information on which the opinion is based; and (3) a detailed discussion of the effects of the action on listed species or designated critical habitat under the provisions of the Endangered Species Act.

3. *Habitat*—The area that provides direct support for a given species, population, or community. It includes all environmental features that comprise an area such as air quality, water quality, vegetation and soil characteristics, and water supply.

4. *Mitigation*—Activities carried out under National Environmental Policy Act regulations, for the purpose of moderating, reducing, or alleviating the impacts of a proposed activity, including (a) avoiding the impact by not taking a certain action; (b) minimizing impacts by limiting the degree or magnitude of the action; (c) rectifying the impact by repairing, rehabilitating, or restoring the affected environment; (d) reducing or eliminating the impact over time by undertaking preservation and maintenance operations during the life of the action; and (e) compensation for the impact by replacing or providing substitute resources or environments.

III. Background

The Department of the Interior and Related Agencies Appropriations Act for Fiscal Year (FY) 2004 authorized an appropriation of $69,137,000 for wildlife conservation grants to States and to the District of Columbia, U.S. Territories, and Tribes under provisions of the Fish and Wildlife Act of 1956 and the Fish and Wildlife Coordination Act, for the development and implementation of programs for the benefit of wildlife and their habitat, including species that are not hunted or fished. The Act further specified that the Service use $5,926,000 of the funds to establish a competitive grant program available to federally recognized Tribes. This language allows the Secretary, through the Director of the Service, to establish a separate Tribal grant program that would not be subject to the provisions of the formula-based State Wildlife Grant program, or other requirements of the State Wildlife Grants portion of these funds. The Service is providing guidance in administration of this $5,926,000 Tribal Wildlife Grant program.

IV. Implementation Guidelines

A. Eligibility

1. Who May Participate in the TWG Program?

Federally recognized Tribes in all parts of the United States, including federally recognized Tribes, pueblos, rancherias, and Alaska native villages or traditional councils as defined by the Alaska Native Claims Settlement Act.

2. Are State-Recognized Tribes or Petitioning Tribes Eligible To Receive Grants Under This Program?

No, only federally recognized Tribes are eligible to receive grants under this program. Federally recognized Tribes are listed in the **Federal Register** (68 FR 68180; December 5, 2003).

3. Can Tribal Organizations or Other Entities (Including Individual Indian Allottees Receive Grants Under This Program?

No. However, organizations or entities may participate as subgrantees or contractors to federally recognized Tribes.

4. What Process Will the Service Use To Solicit and Receive Proposals for Funding?

The Service will request proposals through a **Federal Register** notice. In addition, direct contact, and other forms of outreach to eligible applicants will be used. The Service's Regional Directors will receive all proposals.

5. Who Will Coordinate the Scoring of Grant Application Submissions?

The Regional Native American Liaisons of the Service will coordinate the process to screen proposals to ensure that they are complete and to score them according to nationally uniform criteria. Tribes are encouraged to contact the Native American Liaison in the appropriate Regional Office identified in Table 1 under **ADDRESSES** for additional assistance in submitting proposals.

6. How Will Grant Application Submissions Be Reviewed for Funding?

A national panel will review regionally ranked proposals for recommendations to the Director of the Service (Director).

7. Who Will Serve as the National Review Panel?

Service and other Federal agency personnel, as appropriate, and as may be identified by the Director will serve on the panel.

8. Will Tribal Representatives Be Involved in Reviewing or Ranking Proposals?

No, only Federal employees will review and rank proposals.

9. Who Will Make the Final Determination for Grant Approval?

The Director will make the final determination for grant awards.

10. How Will the Tribes Be Notified Whether or Not They Have Been Awarded Grants?

Applicants will be notified by the Director or Regional Directors as to whether or not they have been awarded grants. Regional Native American Liaisons will contact tribal representatives who signed the grant applications.

B. Application Requirements

1. Is the TWG Program Exempt From Federal Grant Program Compliance?

No, the TWG program must comply with all Federal grant program compliance requirements as specified in 43 CFR part 12: OMB Circulars A–133, A–102, and A–87; and Service Manual Chapters 522 FW1 and 523 FW1, except where specifically exempted. Tribal grantees are responsible for ensuring that subgrantees and contractors adhere to these requirements.

2. What Must Proposals for Participation in the TWG Program Include?

Proposals must include a cover letter, program summary, program narrative, budget narrative, a completed Standard Form 424 Application for Federal Assistance (SF–424), and tribal resolution of support as described herein.

—*A cover letter* briefly states the main features of the proposed project.

—*A program summary* describes, in one-half page, the type of activity that would take place if the Service funds the proposal.

—*A program narrative* clearly identifies the problems that the proposal will correct or help solve as they relate to the development and implementation of programs for the benefit of wildlife and their habitat, including species that are not hunted or fished, and the expected results or benefits. It must contain a needs assessment, objectives, timeline, methodology, geographic location (with maps), monitoring plan, and identification of clear, obtainable, and quantifiable goals and performance measures that will help achieve the management goals and objectives of the TWG and relevant Service and tribal performance goals. The relevant Service goals are *Goal 1,* Sustainability of Fish and Wildlife Populations, including Migratory Bird Conservation (Goal 1.1), Imperiled Species (Goal 1.2), Interjurisdictional Fish (Goal 1.3), Marine Mammal Management (Goal 1.4), Species of International Concern (Goal 1.5), and Invasive Species (Goal 1.6); *Goal 2,* Habitat Conservation; including Habitat Conservation off Service Lands (Goal 2.3); and Mission *Goal 4,* Partnerships in Natural Resources, including tribal Governments (Goal 4.1), all of which can be found in the Service's Long-Term Strategic Plan for 2000 to 2005 at *http://planning.fws.gov/USFWStrategicPlanv3.pdf.* Related Service planning and results can be found at *http://planning.fws.gov/.*

—*A budget narrative* clearly justifies all proposed costs and indicates that the grantee will provide adequate management systems for fiscal and contractual accountability, including annual monitoring and evaluation of progress toward desired project objectives, goals, and performance measures. It should include discussion of direct cost items such as salaries, equipment, consultant services, subcontracts, and travel, as well as program matching or cost sharing information. If some partners will provide in-kind matching, they must be listed in the grant proposal with a letter of commitment from each. Only contributions made by non-Federal partners will be accepted as in-kind match. Applicants may cover new project administrative costs and the Tribal Indirect Cost Rate, but they cannot include pre-existing administrative costs.

—*An SF–424 form* must be included with the grant application and is available on the internet at *http://training.fws.gov/fedaid/toolkit/sf424-f.pdf.*

—*A resolution of support* from the appropriate tribal governing body or from an individual with delegated tribal authority stating support for the proposal is required. If a resolution of support is not submitted with the proposal, one will be required prior to awarding the grant.

3. Where Can Applicants Obtain a Grant Proposal Package?

Applicants can obtain a grant proposal package from the Native American Liaison in the appropriate Regional Office (*see* Table 1 under **ADDRESSES**) or at the Service's Grants Web site *http://grants.fws.gov/tribal.html.*

4. Are Matching Funds Required?

No, Congress did not require matching funds for this appropriation. However, the Service will consider matching funds as an indication of tribal commitment to the program and to encourage partnerships.

5. Are In-Kind Contributions Eligible as Matching Funds?

Yes, in-kind contributions provided by the Tribe or a third party may be used as a match to improve the potential ranking of a proposal. The Service has defined ''in-kind'' as noncash contributions made by the Tribe. In-kind contributions must be necessary and reasonable for carrying out the program, and must represent the same value that the Service would have paid for similar services or property if purchased on the open market. Allowable in-kind contributions are defined in 43 CFR 12.64. Additional information can be found at *http://training.fws.gov/fedaid/toolkit/inkind.pdf.*

6. Can a Tribe Submit More Than One Grant Proposal?

Tribes are encouraged to submit a single comprehensive grant proposal, but multiple proposals are allowable.

7. What Maximum Level of Project Funding Will Be Considered Under the TWG Program?

The Service will award grants up to a maximum of $250,000. If more than one proposal is submitted by any one Tribe, no more than $250,000 total can be awarded to that Tribe. No proposal shall be accepted that requests more than $250,000, in Federal funds.

8. What Minimum Level of Project Funding That Will Be Considered Under the TWG Program?

There is no proposal or grant award minimum.

C. Ranking Criteria

What Ranking Criteria Will the Service Use?

The Service will score proposals based on the following criteria:

Benefit: What are the expected benefits to fish and wildlife resources, including species that are not hunted or fished, and their habitat if this program is successfully completed? The Service requires that the Tribe articulate how the benefits of its proposal support the goals and objectives of the TWG and Service and tribal Performance Goals in their proposal narratives.

Performance Measures: To what extent does the proposal provide obtainable and quantifiable performance measures and a means to monitor, evaluate, and report on these measures compared to an initial baseline? The measures should be specific and clear, and should provide demonstrable benefits to the target species of the action. These actions must support the goals and objectives of the TWG, the Service and the Tribe.

Work Plan: Are the program activities and objectives well-designed and achievable?

Budget: Are all major budget items justified in relation to the program objectives and clearly explained in the narrative description?

Capacity Building: To what extent does the program increase the grantee's capacity to provide for the benefit of wildlife and their habitat?

Contributions and Partnerships: To what extent does the applicant display commitment to the project proposal through in-kind contribution or matching funds and to what extent does it incorporate contributions from other non-Federal partners in the form of either cash or in-kind services?

D. TWG Operations and Management

1. In the Course of Implementing a TWG Project or Program, Can Grantees Use TWG Funds To Pay for Costs of Conservation Law Enforcement or Education?

Yes, if the law enforcement or education component is considered critical to the success of a project which directly contributes to the conservation of wildlife species and their habitats with the greatest conservation need.

2. What Activities Are Included in the ''Development and Implementation of Programs for the Benefit of Wildlife,'' as Referenced in the Department of the Interior and Related Agencies Appropriations Act for FY 2004?

Activities may include, but are not limited to, planning for wildlife and habitat conservation, ongoing and/or new fish and wildlife management actions, fish and wildlife related laboratory and field research; natural history studies, habitat mapping, field surveys and population monitoring, habitat preservation, land acquisition, conservation easements, and outreach efforts. Priority for funding from the TWG Program shall be for those projects with the greatest conservation benefit identified by the Tribe.

3. Can Project Funds Be Used for Species of Tribal Cultural Significance?

Yes, realizing that fish, wildlife and plant resources are important to the traditions and cultures of Tribes these types of projects are eligible.

4. Can Grantees Use TWG Funds To Cover Costs of Environmental Review, Habitat Evaluation, Permit Review (*e.g.,* Section 404), and Other Environmental Compliance Activities Associated With a TWG Project?

Yes, they can fund these activities provided they are directly related to the TWG program or project being funded and are included in the budget and discussed in the program and budget narratives.

5. Are There Any Specific Activities That Are Not Allowable Under the Guidance of TWG?

A proposal cannot include activities required to comply with a Biological Opinion under the Endangered Species Act or include activities required to comply with a permit (*e.g.,* mitigation responsibilities). However, a proposal can include activities that implement conservation recommendations or to cover the costs of environmental review, habitat evaluation, permit review, and other environmental compliance activities that are required because of the TWG project, provided they are included in the budget and discussed in the Program and Budget Narratives.

6. Is the TWG Program a Continuous Revenue Source for Tribal Wildlife Programs?

No, there is no authorization for appropriation of funds beyond FY 2004. Appropriated funds are available until spent.

7. Can the Grantee Hold TWG Funds in an Interest-Bearing Account?

Funds can be held in an interest-bearing account, although any interest earned in excess of $100 must be returned to the fiscally responsible Federal agency (43 CFR 12.64).

8. Can TWG Funds Be Used To Purchase or Acquire Land or Other Interest in Real Property?

Yes, the Service must receive assurances that acquired lands shall be for purposes of conservation consistent with the TWG program.

E. Grant Award Procedures

1. What Additional Information Must Be Provided to the Service by the Grantees Once Awards Are Announced?

Once the Director notifies a grantee that their proposal was selected for funding, the recipient must submit a grant agreement and attachments as required by Federal regulations. As with our other Federal programs, TWG

agreements must comply with 43 CFR part 12, the National Environmental Policy Act, Section 7 of the Endangered Species Act, the National Historic Preservation Act, and all other applicable Federal laws and regulations. This grant program is also subject to provisions of Office of Management and Budget Circulars No. A–87, A–102, and A–133 (*see http://www.whitehouse.gov/omb/circulars*).

2. Once Grants Are Awarded, Who Should the Grantee Consider as the Lead Contact Person?

Once grants have been awarded, the grantee should consider the Regional Native American Liaison (*See* Table 1) as the lead contact person for all matters pertaining to the particular award. Financial matters will be delegated to the Division of Federal Assistance through the Native American Liaison.

3. How Will Funds Be Disbursed Once the Service Has Awarded TWG Grants?

Subsequent to funding approval, grant funds are electronically provided through the Health and Human Services' SMARTLINK payment management system. Through this electronic funds transfer (EFT), grantees will be able to receive funds as needed. Some of the tribal grantees may not be EFT compliant. In order to ensure optimal service to potential grantees within the current Federal Assistance process, grantees will need to obtain EFT capabilities compatible with the 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.

4. What Reporting Requirements Must Tribes Meet Once Funds Are Obligated Under a TWG 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.

5. Will Tribes Be Able To Claim Reimbursement for Administrative Costs (Overhead) and How Will Appropriate Overhead Rates Be Determined?

Yes. These costs can be included as long as they follow the OMB guidelines for administrative costs, which can be obtained through our Federal Assistance office in each Region. However, applicants are encouraged to keep these costs to a minimum of those expenses that are essential to the success of the proposed project. An applicant may include administrative overhead as an in-kind contribution that may improve the overall benefit of the project proposal. Please note that full-time equivalents costs must be tied to a specific project and should be included in proposals sparingly.

V. Procedural Requirements

A. Regulatory Planning and Review (Executive Order 12866)

This policy document identifies eligibility criteria and selection factors that may be used to award grants under the TWG program. 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. The TWG 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 the TWG program. 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 TWG program would create inconsistencies with other agencies' actions. Congress has given the Service the responsibility to administer this program.

3. The TWG program would not materially alter the budgetary impact of entitlements, user fees, loan programs, or the rights and obligations of their recipients. This policy document addresses a 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 that are selected to receive funding under the TWG 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.

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 described 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. 802(2)) because it does not have an annual effect on the economy of $100 million or more. The yearly amount of TWG program funds is limited to $5,926,000 in FY 2004.

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 programs under the Fish and Wildlife Act of 1956 and the Fish and Wildlife Coordination Act.

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 1965 (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, nor does it impact private property.

F. Executive Order 13211—Energy Effects

On May 18, 2001, the President issued Executive Order 13211 which speaks to regulations that significantly affect enerty supply, distribution, and use. The Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This implementation guidance is not expected to significantly affect energy supplies, distribution, or use. Therefore, no Statement of Energy Effects has been prepared.

G. Executive Order 13132—Federalism

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Dated: March 12, 2004.

Paul Hoffman,

Acting Assistant Secretary, Fish and Wildlife and Parks.

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