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## **Title 50 - Wildlife and Fisheries**

### **Chapter I - United States Fish and Wildlife Service, Department of the Interior**

#### **Subchapter F - Financial Assistance - Wildlife and Sport Fish Restoration Program**

#### **Part 86 Boating Infrastructure Grant Program**

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## PART 86 - BOATING INFRASTRUCTURE GRANT PROGRAM

**Authority:** 16 U.S.C. 777c, g, and g-1.

**Source:** 80 FR 26161, May 6, 2015, unless otherwise noted.

### Subpart A - General

#### § 86.1 What does this part do?

- (a) This part tells States how they may apply for and receive grants from the Boating Infrastructure Grant program (BIG) Tier 1-State and Tier 2-National subprograms. Section 86.40 describes the differences between these two subprograms.
- (b) The terms *you*, *your*, and *I* refer to a State agency that applies for or receives a BIG grant. *You* may also apply to a subgrantee with which a State agency has a formal agreement to construct, operate, or maintain a BIG-funded facility.
- (c) The terms *we*, *us*, and *our* refer to the U.S. Fish and Wildlife Service.

#### § 86.2 What is the purpose of BIG?

The purpose of BIG is to construct, renovate, and maintain boating infrastructure facilities for transient recreational vessels at least 26 feet long.

#### § 86.3 What terms do I need to know?

For the purposes of this part, we define these terms:

**BIG-funded facility** means only the part of a facility that we fund through a BIG grant.

**Boating infrastructure** means all of the structures, equipment, accessories, and services that are necessary or desirable for a facility to accommodate eligible vessels. See § 86.12 for examples of boating infrastructure.

**Capital improvement** means:

- (1) A new structure that costs at least \$25,000 to build; or

- (2) Altering, renovating, or repairing an existing structure if it increases the structure's useful life by 10 years or if it costs at least \$25,000.

**Concessioner** means an entity with which a State has a written agreement to operate or manage a BIG-funded facility. The agreement with a concessioner may or may not involve a financial exchange. A concessioner is not a contractor or vendor. You pay a contractor or vendor to perform specific duties or supply specific materials according to a written contract. Concessioners, vendors, and contractors are not grant recipients.

**Construction** means the act of building or significantly altering, renovating, or repairing a structure. Clearing and reshaping land and demolishing structures are types or phases of construction. Examples of structures are buildings, docks, piers, breakwaters, and slips.

**Director** means:

- (1) The Director of the Fish and Wildlife Service whom the Secretary of the Interior has delegated authority to administer BIG nationally; or
- (2) A deputy or another person whom the Director has delegated authority over BIG.

**Eligible user** means an operator or passenger of an eligible vessel.

**Eligible vessel** means a transient recreational vessel at least 26 feet long. The term includes vessels that are owned, loaned, rented, or chartered. The term does not include:

- (1) Commercial vessels;
- (2) Vessels that dock or operate permanently from the facility where a BIG-funded project is located; or
- (3) Vessels that receive payment to routinely transport passengers on a prescribed route, such as cruise ships, dive boats, and ferries.

**Facility** means the structures, equipment, and operations that:

- (1) Provide services to boaters at one location; and
- (2) Are under the control of a single operator or business identified in the grant application.

**Grant** means an approved award of money, the principal purpose of which is to transfer funds from a Federal awarding agency to the non-Federal entity (grantee) to carry out an authorized public purpose and includes the matching cash and any matching in-kind contributions. The legal instrument used is a grant agreement.

**Grants.gov** is a centralized location for States and other entities to find and apply for Federal funding. It is located at <http://www.grants.gov>. We require States to use grants.gov, or any system that replaces it, to apply for BIG grants.

**Maintenance** means keeping structures or equipment in a condition to serve the intended purpose. It includes cyclical or occasional actions to keep facilities fully functional. It does not include operational actions such as janitorial work. Examples of maintenance actions are:

- (1) Lubricating mechanical components of BIG-funded equipment;
- (2) Replacing minor components of a BIG-funded improvement, such as bolts, boards, and individual structural components; and
- (3) Painting, pressure washing, and repointing masonry.

**Marketing** means an activity that promotes a business to interested customers for the financial benefit of the facility. It may include a plan for sales techniques and strategies, business communication, and business development. A business uses marketing to find, satisfy, and keep a customer.

**Match** means the value of any cash or in-kind contributions required or volunteered to complete the BIG-funded facility that are not borne by the Federal Government, unless a Federal statute authorizes such match. Match must follow the criteria at 2 CFR 200.306(b).

**Navigable waters** means waters that are deep and wide enough for the passage of eligible vessels within the water body.

**Operation** means actions that allow a BIG-funded facility or parts of a BIG-funded facility to perform their function on a daily or frequent basis. Examples of operation are janitorial work, service workers, facility administration, utilities, rent, taxes, and insurance.

**Operator** means an individual or entity that is responsible for operating a BIG-funded facility. An operator may be a grantee, a subgrantee, a concessioner, or another individual or entity that the grantee has an arrangement with to operate the BIG-funded facility.

**Personal property** means anything tangible or intangible that is not real property.

**Program income** means gross income earned by the grantee or subgrantee that is directly generated by a grant-supported activity, or earned as a result of the grant, during the period of performance.

**Project** means one or more related actions that are eligible for BIG funding, achieve specific goals and objectives of BIG, and in the case of construction, occur at only one facility.

**Project cost** means total allowable costs incurred under BIG and includes Federal funds awarded through the BIG grant and all non-Federal funds given as the match or added to the Federal and matching shares to complete the BIG-funded project.

**Public communication** means communicating with the public or news media about specific actions or achievements directly associated with BIG. The purpose is to inform the public about BIG-funded projects or the BIG program.

**Real property** means one, several, or all interests, benefits, and rights inherent in owning a parcel of land. A parcel includes anything physically and firmly attached to it by a natural or human action. Examples of real property in this rule include fee and leasehold interests, easements, fixed docks, piers, permanent breakwaters, buildings, utilities, and fences.

**Regional Office** means the main administrative office of one of the Service's geographic Regions in which a BIG-funded project is located. Each Regional Office has a:

- (1) **Regional Director** appointed by the Director to be the chief executive official of the Region and authorized to administer Service activities in the Region, except for those administered directly by the Service's Headquarters Office; and
- (2) **Division of Wildlife and Sport Fish Restoration (WSFR)** or its equivalent that administers BIG grants.

**Renovate** means to rehabilitate all or part of a facility to restore it to its intended purpose or to expand its purpose to allow use by eligible vessels or eligible users.

**Scope** of a project means the purpose, objectives, approach, and results or benefits expected, including the useful life of any capital improvement.

**Service** means the U.S. Fish and Wildlife Service.

**State** means any State of the United States, the Commonwealths of Puerto Rico and the Northern Mariana Islands, the District of Columbia, and the territories of Guam, the U.S. Virgin Islands, and American Samoa.

**Transient** means travel to a single facility for day use or staying at a single facility for up to 15 days.

**Useful life** means the period during which a BIG-funded capital improvement is capable of fulfilling its intended purpose with adequate routine care and maintenance. See §§ 86.73 and 86.74.

## Subpart B - Program Eligibility

### § 86.10 Who may apply for a BIG grant?

One agency in each eligible State may apply for a BIG grant if authorized to do so by:

- (a) A statute or regulation of the eligible jurisdiction;
- (b) The Governor of the State, Commonwealth, or territory; or
- (c) The Mayor of the District of Columbia.

### § 86.11 What actions are eligible for funding?

- (a) The following actions are eligible for BIG funding if they are for eligible users or eligible vessels:
  - (1) Construct, renovate, or maintain publicly or privately owned boating infrastructure (see § 86.12) following the requirements at § 86.13. This may include limited repair or restoration of roads, parking lots, walkways, and other surface areas damaged as a direct result of BIG-funded construction.
  - (2) Conduct actions necessary to construct boating infrastructure, such as:
    - (i) Engineering, economic, environmental, historic, cultural, or feasibility studies or assessments; and
    - (ii) Planning, permitting, and contracting.
  - (3) Dredging a channel, boat basin, or other boat passage following the requirements at § 86.15.
  - (4) Install navigational aids to give transient vessels safe passage between a facility and navigable channels or open water.
  - (5) Produce information and education materials specific to BIG or a BIG-funded project and that credit BIG as a source of funding when appropriate. Examples of eligible actions include:
    - (i) Locating BIG-funded facilities on charts and cruising guides;
    - (ii) Creating Statewide or regional brochures telling boaters about BIG and directing them to BIG-funded facilities;
    - (iii) Advertising a BIG-funded facility in print or electronic media with the emphasis on BIG, the BIG-funded facility, or services for eligible users, and not on marketing the marina as a whole;
    - (iv) Marina newsletter articles, marina or agency Web pages, and other communications you produce that are directly related to the BIG-funded project;

- (v) Giving boaters information and resources to help them find and use the BIG-funded facility; and
- (vi) Public communication.

(6) Record the Federal interest in the real property.

(7) Use BIG Tier 1 - State grant awards to administer BIG Tier 1 - State and BIG Tier 2 - National grants, or grant programs, Statewide. This includes coordinating and monitoring to ensure BIG-funded facilities are well-constructed, meet project objectives, and serve the intended purpose for their useful life; and to manage BIG grant performance or accomplishments.

(b) You may ask your Regional Office to approve preaward costs for eligible actions. You incur preaward costs at your own risk, as we will only reimburse you for preaward costs we approved if you receive a grant.

(c) Applicants may seek funding for installing pumpout facilities through the Clean Vessel Act Grant Program (CVA) instead of including the cost as part of a BIG grant application. A State may require a pumpout be funded through CVA, Catalog of Federal Domestic Assistance number 15.616.

(d) Other actions may qualify for BIG funding, subject to our approval, if they achieve the purposes of BIG. We will describe actions we approve and how they are eligible for BIG funding in the full text of the annual Notice of Funding Opportunity (NOFO).

## § 86.12 What types of construction and services does boating infrastructure include?

Boating infrastructure may include:

- (a) Boat slips, piers, mooring buoys, floating docks, dinghy docks, day docks, and other structures for boats to tie-up and gain access to the shore or services.
- (b) Fuel stations, restrooms, showers, utilities, and other amenities for transient-boater convenience.
- (c) Lighting, communications, buoys, beacons, signals, markers, signs, and other means to support safe boating and give information to aid boaters.
- (d) Breakwaters, sea walls, and other physical improvements to allow an area to offer a harbor of safe refuge. A *harbor of safe refuge* is an area that gives eligible vessels protection from storms. To be a harbor of safe refuge, the facility must offer a place to secure eligible vessels and offer access to provisions and communication for eligible users.
- (e) Equipment and structures for collecting, disposing of, or recycling liquid or solid waste from eligible vessels or for eligible users.

## § 86.13 What operational and design features must a facility have where a BIG-funded facility is located?

- (a) At project completion, a facility where a BIG-funded facility is located must:
  - (1) Be open to eligible users and operated and maintained for its intended purpose for its useful life;
  - (2) Clearly designate eligible uses and inform the public of restrictions;
  - (3) Offer security, safety, and service for eligible users and vessels;
  - (4) Be accessible by eligible vessels on navigable waters;

- (5) Allow public access as described at § 86.92;
- (6) Have docking or mooring sites with water access at least 6 feet deep at the lowest tide or fluctuation, unless the facility qualifies under paragraph (c) of this section; and
- (7) Have an operational pumpout station if:
  - (i) Eligible vessels stay overnight; and
  - (ii) Available pumpout service is not located within 2 nautical miles; or
  - (iii) State or local laws require one on site.
- (b) We will waive the pumpout requirement if you show in the grant application the inability to install a pumpout.
  - (1) We will review your request and will grant the waiver if you present circumstances that show:
    - (i) A hardship due to lack of utilities or other difficult obstacles, such as a BIG-funded facility on an island with no power or a remote location where the equipment cannot be serviced or maintained regularly;
    - (ii) State or local law does not allow septic-waste disposal facilities at the location;
    - (iii) You are in the process of applying for a CVA grant for the same award year as the BIG grant to install a pumpout station as part of the BIG-funded facility; or
    - (iv) You have received a CVA grant and will install a pumpout station as part of the BIG-funded facility on or before the time the BIG-funded facility is completed.
  - (2) When we waive the pumpout requirement, the BIG-funded facility must inform boaters:
    - (i) They are required to properly treat or dispose of septic waste; and
    - (ii) Where they can find information that will direct them to nearby pumpout stations.
  - (3) If we deny your request, we will follow the process described in the annual NOFO.
  - (4) If you seek an allowance based on this paragraph, you must include supporting information in the grant application as described at § 86.43(n)(1).
- (c) We will allow water access at a depth less than 6 feet if you can show that the BIG-funded facility will serve its intended purpose for typical eligible users that visit that location.
- (d) Any of these design features may already be part of the facility, or be funded through another source, and need not be included as part of the BIG project.

#### **§ 86.14 How can I receive BIG funds for facility maintenance?**

- (a) For BIG Tier 1 - State and BIG Tier 2 - National grants:
  - (1) You may request BIG funds for facility maintenance only if you will complete the maintenance action during the period of performance.
  - (2) You may apply user fees collected at the BIG-funded facility after the period of performance to the maintenance of the facility.
- (b) For BIG Tier 1 - State grants:



- (1) You may request BIG funds for one-time or as-needed maintenance costs at any BIG-eligible facility as long as the costs are discrete and follow paragraph (a) of this section.
- (2) If you use BIG funds for maintenance at a facility that has received a BIG grant in the past, you must extend the useful life of each affected capital improvement accordingly.
- (3) States may limit or exclude BIG maintenance funding they make available to subgrantees.
- (c) For BIG Tier 2 - National grants, you may request BIG funds for maintenance if it directly benefits eligible users and is directly related to the BIG project. You are responsible for all maintenance costs after the period of performance except as provided at paragraph (b) of this section.

### **§ 86.15 How can dredging qualify as an eligible action?**

- (a) Dredging in this part includes the physical action of removing sediment from the basin and any associated actions, such as engineering, permitting, dredge-material management, and other actions or costs that occur because of the dredging. Dredging can qualify as an eligible action under the grant only if the costs for the dredging-related actions do not exceed \$200,000.
- (b) When you complete the project, the BIG-funded dredged area must:
  - (1) Have navigable water depth to accommodate eligible vessels as described at § 86.13(a)(6);
  - (2) Allow safe, accessible navigation by eligible vessels to, from, and within the BIG-funded facility; and
  - (3) Allow eligible vessels to dock safely and securely at transient slips.
- (c) You must show in the grant application that:
  - (1) Dredging is needed to fulfill the purpose and objectives of the proposed project; and
  - (2) You have allocated the dredging costs between the expected use by eligible vessels and ineligible vessels.
- (d) You certify by signing the grant application that you have enough resources to maintain the dredged area at the approved width and depth for the useful life of the BIG-funded facility, under typical conditions.

### **§ 86.16 What actions are ineligible for BIG funding?**

- (a) These actions or costs are ineligible for BIG funding:
  - (1) Law enforcement.
  - (2) Direct administration and operation of the facility, such as salaries, utilities, and janitorial duties. Janitorial duties may include:
    - (i) Routine cleaning;
    - (ii) Trash and litter collection and removal; and
    - (iii) Restocking paper products.
  - (3) Developing a State plan to construct, renovate, or maintain boating infrastructure.
  - (4) Acquiring land or any interest in land.
  - (5) Constructing, renovating, or maintaining roads or parking lots, except limited action as described at § 86.11(a)(1).

- (6) Constructing, renovating, or maintaining boating infrastructure for:
  - (i) Shops, stores, food service, other retail businesses, or lodging;
  - (ii) Facility administration or management, such as a harbormaster's or dockmaster's office; or
  - (iii) Transportation, storage, or services for boats on dry land, such as dry docks, haul-outs, and boat maintenance and repair shops.
- (7) Purchasing or operating service boats to transport boaters to and from mooring areas.
- (8) Marketing. Examples of ineligible marketing actions include:
  - (i) Giveaway items promoting the business or agency;
  - (ii) General marina or agency newsletters or Web sites promoting the marina or agency;
  - (iii) Exhibits at trade shows promoting anything other than the BIG-funded facility; and
  - (iv) Outreach efforts directed at the marina as a business or the agency as a whole and not focused on BIG or the BIG-funded facility.
- (9) Constructing, renovating, or maintaining boating infrastructure that does not:
  - (i) Include design features as described at § 86.13;
  - (ii) Serve eligible vessels or users; and
  - (iii) Allow public access as described at § 86.92.
- (10) Purchase of supplies and other expendable personal property not directly related to achieving the project objectives.
- (b) Other activities may be ineligible for BIG funding if they are inconsistent with the:
  - (1) Purpose of BIG; or
  - (2) Applicable Cost Principles at 2 CFR part 200, subpart F.

### **§ 86.17 Who must own the site of a BIG-funded facility?**

- (a) You or another entity approved by us must own or have a legal right to operate the site of a BIG-funded facility. If you are not the owner, you must be able to show, before we approve your grant, that your contractual arrangements with the owner of the site will ensure that the owner will use the BIG-funded facility for its authorized purpose for its useful life.
- (b) Subgrantees or concessioners may be a local or tribal government, a nonprofit organization, a commercial enterprise, an institution of higher education, or a State agency other than the agency receiving the grant.
- (c) Subgrantees that are commercial enterprises are subject to 2 CFR part 200, subparts A through D, for grant administrative requirements.

### **§ 86.18 How can I ensure that a BIG-funded facility continues to serve its intended purpose for its useful life?**

- (a) When you design and build your BIG-funded facility, you must consider the features, location, materials, and technology in reference to the geological, geographic, and climatic factors that may have an impact on its useful life.

- (b) You must record the Federal interest in real property that includes a BIG-funded capital improvement according to the assurances required in the grant application and guidance from the Regional WSFR Office.
- (c) If we direct you to do so, you must require that subgrantees record the Federal interest in real property that includes a BIG-funded capital improvement.
- (d) If we do not direct you to act as required by paragraph (c) of this section, you may require subgrantees to record the Federal interest in real property that includes a BIG-funded capital improvement.
- (e) You must state in your subaward that subgrantees must not alter the ownership, purpose, or use of the BIG-funded facility as described in the project statement without the approval of you and the WSFR Regional Office.
- (f) You may impose other requirements on subgrantees, as allowed by law, to reduce State liability for the BIG-funded facility. Examples are insurance, deed restrictions, and a security interest agreement, which uses subgrantee assets to secure performance under the grant.

### **§ 86.19 What if a BIG-funded facility would benefit both eligible and ineligible users?**

You may assign any share of the costs to the BIG grant only if the BIG-funded facility or a discrete element of the BIG-funded facility benefits only eligible users. If a cost does not exclusively benefit eligible users, you must allocate costs accordingly. A discrete element has a distinct purpose, such as a fuel station, pumpout facility, breakwater, or dock system.

- (a) You must clearly show and explain in the project statement:
  - (1) The anticipated benefits of each project, discrete elements, and major components;
  - (2) The breakdown of costs, as described at § 86.43(i), including the basis or method you use to allocate costs between eligible and ineligible users; and
  - (3) Your reasoning in determining how to allocate costs, based on paragraphs (a) through (e) of this section and any other guidance in the annual NOFO.
- (b) After you submit the application, if we do not agree with your cost allocation using paragraph (a) of this section, we will contact you. We may ask you to clarify your information. If we do not agree that the allocation is equitable, we may negotiate an equitable allocation. We must be able to agree that you are appropriately allocating costs between eligible and ineligible users based on the expected use before we consider your application for award.
- (c) If a proposed BIG-funded facility, or a discrete element, minor component, or single action of the BIG-funded project, gives a secondary or minimal benefit to all users, we will not require you to allocate costs between eligible and ineligible users for that benefit. Examples of how we will apply this rule are:
  - (1) The primary purpose is to benefit eligible users directly, with the secondary benefit for both eligible and ineligible users. You must clearly state the exclusive benefit to eligible users in your application. The secondary benefit cannot exclude eligible users from the primary purpose. For example, if you construct a dock system for exclusive use by eligible vessels and a secondary benefit of the dock system is protection of the marina from wave action, you would not have to allocate costs for the secondary benefit. However, the secondary benefit cannot be docking for ineligible vessels because it would exclude eligible users from the primary purpose.

- (2) The secondary benefit to ineligible users is not the primary purpose, is minimal, and you do not add special features to accommodate ineligible users. For example, you do not have to allocate costs between user groups for a gangway from the transient dock, designed exclusively for eligible users, even though it is accessible to the general public. However, if you construct the gangway to accommodate the expected ineligible users, then you must allocate costs between user groups.
- (3) The expected benefits to both eligible and ineligible users have minimal value. If the component has a value of .0025 percent or less than the maximum available Federal award plus required match, you do not have to allocate costs for that component. We will post the amount of the minimal value each year in the annual NOFO. For example, if the total maximum Federal award and required match for a BIG Tier 2 - National project is \$2 million, you do not have to allocate costs between user groups for any discrete project element, component, or action with a value of \$5,000 or less.
- (d) Examples of actions for which you must allocate costs between user groups are the following, unless paragraph (b) of this section applies:
  - (1) You propose a 200-foot dock for eligible user tie-up spaces that you attach to the shore at a boat launch. It will attract ineligible use as a tie-up for boaters as they enter and exit the water. You must allocate costs between the expected eligible and ineligible use.
  - (2) You propose a breakwater, fuel station, pumpout station, restroom, dredging, navigational aids, or other multiuse or multipurpose action.
- (e) Examples of actions for which you do not need to allocate costs between user groups are:
  - (1) You propose to construct, renovate, or maintain docks specifically for eligible vessels.
  - (2) You propose to produce information and educational materials specific to BIG.
- (f) You must clearly inform boaters when access by ineligible users is limited or restricted following the guidance at § 86.94.
- (g) We may ask you to clarify or change how you allocate costs in your grant application if they do not meet our standards. We may reject costs or applications that do not allocate costs between eligible and ineligible users according to the requirements of this section and the NOFO.

## Subpart C - Federal Funds and Match

### § 86.30 What is the source of BIG funds?

- (a) BIG receives Federal funding as a percentage of the annual revenues to the Sport Fish Restoration and Boating Trust Fund (Trust Fund) [26 U.S.C. 4161(a), 4162, 9503(c), and 9504].
- (b) The Trust Fund receives revenue from sources including:
  - (1) Excise taxes paid by manufacturers on sportfishing equipment and electric outboard motors;
  - (2) Fuel taxes attributable to motorboats and nonbusiness use of small-engine power equipment; and
  - (3) Import duties on fishing tackle, yachts, and pleasure craft.

### § 86.31 How does the Service know how much money will be available for BIG grants each year?

- (a) We estimate funds available for BIG grants each year based on the revenue projected for the Trust Fund. We include this estimate when we issue a NOFO at <http://www.grants.gov>.

- (b) We calculate the actual amount of funds available for BIG grants based on tax collections, any funds carried over from previous fiscal years, and available unobligated BIG funds.

### § 86.32 What are the match requirements?

- (a) The Act requires that you or another non-Federal partner must pay at least 25 percent of eligible and allowable BIG-funded facility costs. We must waive the first \$200,000 of the required match for each grant to the Commonwealth of the Northern Mariana Islands and the territories of American Samoa, Guam, and the U.S. Virgin Islands (48 U.S.C. 1469a).
- (b) Match may be cash contributed during the funding period or in-kind contributions of personal property, structures, and services including volunteer labor, contributed during the period of performance.
- (c) Match must be:
  - (1) Necessary and reasonable to achieve project objectives;
  - (2) An eligible activity or cost;
  - (3) From a non-Federal source, unless you show that a Federal statute authorizes the specific Federal source for use as match; and
  - (4) Consistent with 2 CFR 200.29 and 200.306, and any other applicable sections of 2 CFR part 200. This includes any regulations or policies that replace or supplement 2 CFR part 200.
- (d) Match must not include:
  - (1) An interest in land or water;
  - (2) The value of any structure completed before the beginning of the period of performance, unless the Service approves the activity as a preaward cost;
  - (3) Costs or in-kind contributions that have been or will be counted as satisfying the cost-sharing or match requirement of another Federal grant, a Federal cooperative agreement, or a Federal contract, unless authorized by Federal statute; or
  - (4) Any funds received from another Federal source, unless authorized by Federal statute.

### § 86.33 What information must I give on match commitments, and where do I give it?

- (a) You must give information on the amount and the source of match for your proposed BIG-funded facility on the standard grant application form at <http://www.grants.gov>.
- (b) You must also give information on the match commitment by the State, a subgrantee, or other third party in the project statement under "Match and Other Contributions."
- (c) In giving the information required at paragraph (b) of this section, you must:
  - (1) State the amount of matching cash;
  - (2) Describe any matching in-kind contributions;
  - (3) State the estimated value of any in-kind contributions; and
  - (4) Explain the basis of the estimated value.

## § 86.34 What if a partner is not willing or able to follow through on a match commitment?

- (a) You are responsible for all activity and funding commitments in the grant application. If you discover that a partner is not willing or able to meet a grant commitment, you must notify us that you will either:
- (1) Replace the original partner with another partner who will deliver the action or the funds to fulfill the commitment as stated in the grant application; or
  - (2) Give either cash or an in-kind contribution(s) that at least equals the value and achieves the same objective as the partner's original commitment of cash or in-kind contribution.
- (b) If a partner is not willing or able to meet a match commitment and you do not have enough money to complete the BIG-funded facility as proposed, you must follow the requirements at §§ 86.44 and 86.100.

## Subpart D - Application for a Grant

## § 86.40 What are the differences between BIG Tier 1 - State grants and BIG Tier 2 - National grants?

### Comparison of BIG Tier 1 - State and BIG Tier 2 - National Grants

	BIG Tier 1 - State	BIG Tier 2 - National
(a) What actions are eligible for funding?	Those listed at § 86.11	Those listed at § 86.11 except § 86.11(a)(7).
(b) What is the amount of Federal funds I can receive in one BIG grant?	Each year we make at least \$200,000 available to each State. We may increase the award that States may request annually to an amount above \$200,000 if enough funds are available and it is advantageous to the program mission. We announce each year in the annual NOFO posted at <a href="http://www.grants.gov">http://www.grants.gov</a> the maximum Federal funds you may request	We may limit funding to a maximum award of \$1.5 million. We may increase the maximum funding you may request if enough funds are available and it is advantageous to the program mission. We announce each year in the annual NOFO posted at <a href="http://www.grants.gov">http://www.grants.gov</a> the recommended maximum Federal funds you may request.
(c) How many grant applications can I submit each year?	Each State can only request up to the annual funding limit each year. You can do this by sending in one grant application with one project or multiple projects. The Regional WSFR Office may ask a State with multiple projects to prepare a separate grant request for each project, as long as the total of all projects does not exceed the annual funding limit	No limit.
(d) How does the Service choose grant	We fund a single grant or multiple grants per State up to the maximum annual funding amount for that year	We score each grant application according to ranking criteria at § 86.51. We recommend applications, based on scores and available funding, to the Director. The Director selects the applications for award.

	BIG Tier 1 - State	BIG Tier 2 - National
applications for funding?		

### § 86.41 How do I apply for a grant?

- (a) If you want to apply to be a subgrantee, you must send an application to the State agency that manages BIG following the rules given by your State. We award BIG funds only to States.
- (b) The director of your State agency (see § 86.10) or an authorized representative must certify all standard forms submitted in the grant application process in the format that we designate.
- (c) States must submit a grant application through <http://www.grants.gov>. The Catalog of Federal Domestic Assistance (CFDA) number for BIG is 15.622.
- (d) If your State supports Executive Order 12372, Intergovernmental Review of Federal Programs, you must send copies of all standard forms and supporting information to the State Clearinghouse or Single Point of Contact identified at [http://www.whitehouse.gov/omb/grants\\_spoc/](http://www.whitehouse.gov/omb/grants_spoc/) before sending it through <http://www.grants.gov>.

### § 86.42 What do I have to include in a grant application?

- (a) When you submit a BIG grant application, you must include standard forms, a BIG project statement as described at § 86.43, documents, maps, images, and other information asked for in the annual NOFO at <http://www.grants.gov>, CFDA 15.622, in the format we ask for.
- (b) You must include supporting documentation explaining how the proposed work complies with applicable laws and regulations. You must also state the permits, evaluations, and reviews you need to complete the project. After we approve your project, you will follow guidance at § 86.61 to complete requirements that will become part of your application.
- (c) After we review your application, any responses to our requests to give more information or to clarify information become part of the application.
- (d) Misrepresentations of the information you give in an application may be a reason for us to:
  - (1) Reject your application; or
  - (2) Terminate your grant and require repayment of Federal funds awarded.

### § 86.43 What information must I put in the project statement?

You must put the following information in the project statement:

- (a) **Need.** Explain why the project is necessary and how it fulfills the purpose of BIG. To demonstrate the need for the project you must:
  - (1) For construction projects, describe existing facilities available for eligible vessels near the proposed project. Support your description by including images that show existing structures and facilities, the proposed BIG-funded facility, and relevant details, such as the number of transient slips and the amenities for eligible users.
  - (2) Describe how the proposed project fills a need or offers a benefit not offered by the existing facilities identified at paragraph (a)(1) of this section.

- (3) Give information to support the number of transient boats expected to use the area of the proposed project and show that the existing facilities identified at paragraph (a)(1) of this section are not enough to support them.
- (b) **Purpose.** State the desired outcome of the project in general or abstract terms, but in such a way that we can review the information and apply it to the competitive review. Base the purpose on the need as described in paragraph (a) of this section.
- (c) **Objectives.** Identify specific, measurable, attainable, relevant, and time-bound (SMART) outputs related to the need you are addressing.
- (d) **Results or benefits expected.**
  - (1) Describe each capital improvement, service, or other product that will result from the project, and its purpose.
  - (2) Describe how the structures, services, or other products will:
    - (i) Achieve the need described at paragraph (a) of this section; and
    - (ii) Benefit eligible users.
- (e) **Approach.**
  - (1) Describe the methods to be used to achieve the objectives. Show that you will use sound design and proper procedures. Include enough information on the status of needed permits, land use approvals, and other compliance requirements for us to make a preliminary assessment.
  - (2) Give the name, contact information, qualifications, and role of each known concessioner or subgrantee.
  - (3) Explain how you will exercise control to ensure the BIG-funded facility continues to achieve its authorized purpose during the useful life of the BIG-funded project.
- (f) **Useful life.** Estimate the useful life in years of each capital improvement for the proposed project. Explain how you estimated the useful life of each capital improvement. You must reference a generally accepted method used to determine useful life of a capital improvement. You will finalize useful life during the approval process. See §§ 86.73 and 86.74.
- (g) **Geographic location.**
  - (1) State the location using Global Positioning System (GPS) coordinates in the format we ask for in the annual NOFO.
  - (2) State the local jurisdiction (county, city, town, or equivalent), street address, and water body associated with the project.
  - (3) Include maps in your application, such as:
    - (i) A small State map that shows the general location of the project;
    - (ii) A local map that shows the facility location and the nearest community, public road, and navigable water body; and
    - (iii) Maps or images that show proximity to significant destinations, services that support eligible users, terrain considerations, access, or other information applicable to your project.



- (iv) Any other map that supports the information in the project statement.
- (h) **Project officer.** If the Federal Aid Coordinator for the State agency will be the project officer, enter the term *State Federal Aid Coordinator* under this heading. If the State Federal Aid Coordinator will not be the project officer, give the name, title, work address, work email, and work telephone number of the contact person. The project officer identified should have a detailed knowledge of the project. State whether the project officer has the authority to sign requests for prior approval, project reports, and other communications committing the grantee to a course of action.
- (i) **Budget narrative.** Provide costs and other information sufficient to show that the project will result in benefits that justify the costs. You must use reasonably available resources to develop accurate cost estimates for your project to insure the successful completion of your BIG-funded facility. You should discuss factors that would influence project costs as described at § 86.53(d). Costs must be necessary and reasonable to achieve the project objectives.
  - (1) You must state how you will allocate costs between eligible and ineligible users following the requirements at § 86.19 and explain the method used to allocate costs equitably between anticipated benefits for eligible and ineligible users.
  - (2) State sources of cash and in-kind values you include in the project budget.
  - (3) Describe any item that has cost limits or requires our approval and estimate its cost or value. Examples are dredging and preaward costs.
- (j) **Match and other partner contributions.** Identify the cash and in-kind contributions that you, a partner, or other entity contribute to the project and describe how the contributions directly and substantively benefits completion of the project. See §§ 86.32 and 86.33 for required information.
- (k) **Fees and program income, if applicable.**
  - (1) See § 86.90 for the information that you must include on the estimated fees that an operator will charge during the useful life of the BIG-funded facility.
  - (2) See §§ 86.77 and 86.78 for an explanation of how you may use program income. If you decide that your project is likely to generate program income during the period of performance, you must:
    - (i) Estimate the amount of program income that the project is likely to generate; and
    - (ii) Indicate how you will apply program income to Federal and non-Federal outlays.
- (l) **Relationship with other grants.** Describe the relationship between the BIG-funded facility and other relevant work funded by Federal and non-Federal grants that is planned, expected, or in progress.
- (m) **Timeline.** Describe significant milestones in completing the project and any accomplishments to date.
- (n) **General.**
  - (1) If you seek a waiver based on § 86.13(b), you must include the request and supporting information in the grant application following the instructions in the annual NOFO.
  - (2) Include any other description or document we ask for in the annual NOFO or that you need to support your proposed project.
- (o) **Ranking criteria.** In BIG Tier 2 - National applications, you must respond to each of the questions found in the ranking criteria at § 86.51. We also publish the questions for these criteria in the annual NOFO at <http://www.grants.gov>.

- (1) In addressing the ranking criteria, refer to the information at §§ 86.52 through 86.60 and any added information we ask for in the annual NOFO.
- (2) You may give information relevant to the ranking criteria as part of the project statement. If you take this approach, you must reference the criterion and give supporting information to reflect the guidance at §§ 86.52 through 86.60.

**§ 86.44 What if I need more than the maximum Federal share and required match to complete my BIG-funded project?**

- (a) If you plan a BIG project that you cannot complete with the recommended maximum Federal award and the required match, you may:
  - (1) Find other sources of non-Federal funds to complete the project;
  - (2) Divide your larger project into smaller, distinct, stand-alone projects and apply for more than one BIG grant, either in the same year or in different years. One project cannot depend on the anticipated completion of another; or
  - (3) Combine your BIG Tier 1 - State and BIG Tier 2 - National funding to complete a project at a single location.
- (b) If you are awarded a grant and find you cannot complete a BIG project with the Federal funds and required match, you may:
  - (1) Find other sources of non-Federal funds to complete the project.
  - (2) Consider if BIG Tier 1 - State funds are available to help complete the project. This is not a guaranteed option.
  - (3) Ask for approval to revise the grant by following the requirements at subpart H of this part.
- (c) For BIG Tier 2 - National grants, we review and rank each application individually, and each must compete with other applications for the same award year.
- (d) If you receive a BIG grant for one of your applications, we do not give preference to other applications you submit.
- (e) If you do not complete your project, we may take one or more of the remedies for noncompliance found at 2 CFR 200.338, and any other regulations that apply.

**§ 86.45 If the Service does not select my grant application for funding, can I apply for the same project the following year?**

Yes. If we do not select your BIG grant application for funding, you can apply for the same project the following year or in later years.

**§ 86.46 What changes can I make in a grant application after I submit it?**

- (a) After you submit your grant application, you can add or change information up to the date and time that the applications are due.
- (b) After the application due date and before we announce selected projects, you can add or change information in your application only if it does not affect the scope of the project, would not affect the score of the application, and is not a correction (see paragraph (c) of this section).

- (1) During this period we may ask you to change the useful life following the requirements at § 86.74 or allocation of costs between users of the BIG project following the requirements at § 86.19.
- (2) If your application proposes using BIG funds for an action we identify as ineligible, we will decide on a case-by-case basis whether we will allow you to change your application to remove identified ineligible costs and if we will consider your application for funding.
- (c) You must inform us of any incorrect information in an application as soon as you discover it, either before or after receiving an award.
- (d) We may ask you at any point in the application process to:
  - (1) Clarify, correct, explain, or supplement data and information in the application;
  - (2) Justify the eligibility of a proposed action; or
  - (3) Justify the allowability of proposed costs or in-kind contributions.
- (e) If you do not respond fully to our questions at paragraph (d) of this section in the time allotted, we may decide not to consider your application for funding.
- (f) If your application is competitive, but funding is limited and we cannot fully fund your project, we may tell you the amount of available funds and ask you if you wish to accept the reduced funding amount. We will decide on a case-by-case basis if we will consider changes to the scope of your project based on the reduced funding. Any changes to the scope of a project must not result in reducing the number of points enough to lower your project's ranking position. If you choose to accept the reduced amount, you must amend your application to reflect all changes, including the difference in Federal and non-Federal funding.

## Subpart E - Project Selection

### § 86.50 Who ranks BIG Tier 2 - National grant applications?

We assemble a panel of our professional staff to review, rank, and recommend grant applications for funding to the Director. This panel may include representatives of our Regional Offices, with Headquarters staff overseeing the review, ranking, and recommendation process. Following the requirements of the Federal Advisory Committee Act (5 U.S.C. Appendix), the Director may invite nongovernmental organizations and other non-Federal entities to take part in an advisory panel to make recommendations to the Director.

### § 86.51 What criteria does the Service use to evaluate BIG Tier 2 - National applications?

Our panel of professional staff and any invited participants evaluate BIG Tier 2 - National applications using the ranking criteria in the following table and assign points within the range for each criterion. We may give added information to guide applicants regarding these criteria in the annual NOFO on <http://www.grants.gov>. This may include the minimum total points that your application must receive in order to qualify for award.

Ranking criteria	Points
(a) Need, Access, and Cost Efficiency	20 total possible points.
(1) Will the proposed boating infrastructure meet a need for more or improved facilities?	0-10.
(2) Will eligible users receive benefits from the proposed boating infrastructure that justify the cost of the project?	0-7.

Ranking criteria	Points
(3) Will the proposed boating infrastructure accommodate boater access to significant destinations and services that support transient boater travel?	0-3.
(b) Match and Partnerships	10 total possible points.
(1) Will the proposed project include private, local, or State funds greater than the required minimum match?	0-7.
(2) Will the proposed project include contributions by private or public partners that contribute to the project objectives?	0-3.
(c) Innovation	6 total possible points.
(1) Will the proposed project include physical components, technology, or techniques that improve eligible-user access?	0-3.
(2) Will the proposed project include innovative physical components, technology, or techniques that improve the BIG-funded project?	0-2.
(3) Has the facility where the project is located demonstrated a commitment to environmental compliance, sustainability, and stewardship and has an agency or organization officially recognized the facility for its commitment?	0-1.
(d) Total possible points	36.

## § 86.52 What does the Service consider when evaluating a project on the need for more or improved boating infrastructure?

In evaluating a proposed project under the criterion at §§ 86.51(a)(1) on the need for more or improved boating infrastructure facilities, we consider whether the project will:

- (a) Construct new boating infrastructure in an area that lacks it, but where eligible vessels now travel or would travel if the project were completed;
- (b) Renovate a facility to:
  - (1) Improve its physical condition;
  - (2) Follow local building codes;
  - (3) Improve generally accepted safety standards; or
  - (4) Adapt it to a new purpose for which there is a demonstrated need;
- (c) Create accessibility for eligible vessels by reducing wave action, increasing depth, or making other physical improvements;
- (d) Expand an existing marina or mooring site that is unable to accommodate current or projected demand by eligible vessels; or
- (e) Make other improvements to accommodate an established eligible need.

**§ 86.53 What factors does the Service consider for benefits to eligible users that justify the cost?**

- (a) We consider these factors in evaluating a proposed project under the criterion at § 86.51(a)(2) on whether benefits to eligible users justify the cost:
  - (1) Total cost of the project;
  - (2) Total benefits available to eligible users upon completion of the project; and
  - (3) Reliability of the data and information used to decide benefits relative to costs.
- (b) You must support the benefits available to eligible users by clearly describing them in the project statement and explaining how they relate to Need at § 86.43(a).
- (c) We will consider the cost relevant to all benefits to eligible users that are adequately supported in the application. We may consider the availability of preexisting structures and amenities, but only in the context of the need identified at § 86.43(a).
- (d) Describe in your application any factors that would influence project costs, such as:
  - (1) The need for specialized materials to meet local codes, address weather or terrain, or extend useful life;
  - (2) Increased transportation costs due to location; or
  - (3) Other factors that may increase costs, but whose actions support needed benefits.
- (e) Describe any costs that are associated with providing a harbor of safe refuge.

**§ 86.54 What does the Service consider when evaluating a project on boater access to significant destinations and services that support transient boater travel?**

In evaluating a proposed project under the criterion on boater access at § 86.51(a)(3), we consider:

- (a) The degree of access that the BIG-funded facility will give;
- (b) The activity, event, or landmark that makes the BIG-funded facility a destination, how well known the attraction is, how long it is available, and how likely it is to attract boaters to the facility; and
- (c) The availability of services and safety near the BIG-funded facility, how easily boaters can access them, and how well they serve the needs of eligible users.

**§ 86.55 What does the Service consider as a partner for the purposes of these ranking criteria?**

- (a) The following may qualify as partners for purposes of the ranking criteria:
  - (1) A non-Federal entity, including a subgrantee.
  - (2) A Federal agency other than the Service.
- (b) The partner must commit to a financial contribution or an in-kind contribution, or to take a voluntary action during the period of performance.
- (c) In-kind contributions or actions must be necessary and contribute directly and substantively to the completion of the project. You must explain in the grant application how they are necessary and contribute to completing the project.

- (d) A governmental entity may be a partner unless its contribution to completing the project is a mandatory duty of the agency, such as reviewing a permit application. A voluntary action by a government agency or employee is a partnership.

**§ 86.56 What does the Service consider when evaluating a project that includes more than the minimum match?**

- (a) When we evaluate a project under the criterion for match at § 86.51(b)(1), we consider how much cash the applicant and partners commit above the required minimum match of 25 percent of project costs.
- (b) The contribution may be from a State, a single source, or any combination of sources.
- (c) We will award points as follows:

Percent cash match	Points
26-30	1
31-35	2
36-40	3
41-45	4
46-50	5
51-80	6
81 or higher	7

- (d) We must waive the first \$200,000 in match for the entities described at § 86.32(a). We will determine the required match by subtracting the waived amount from the required 25 percent match and award points using the table at paragraph (c) of this section.

**§ 86.57 What does the Service consider when evaluating contributions that a partner brings to a project?**

- (a) We consider these factors for partner contributions in evaluating a proposed project under the criterion at § 86.51(b)(2):
- (1) The significance of the contribution to the success of the project;
  - (2) How the contribution supports the actions proposed in the project statement;
  - (3) How the partner demonstrates its commitment to the contribution; and
  - (4) The ability of the partner to fulfill its commitment.
- (b) We may consider the combined contributions of several partners, according to the factors at paragraph (a) of this section.
- (c) To receive consideration for this criterion, you must show in your application how a partner, or group of partners, significantly supports the project by addressing the factors in paragraph (a) of this section.
- (d) You may describe partner contributions in the project statement.
- (e) Under this criterion, partner contributions need not exceed the 25 percent required match.

**§ 86.58 What does the Service consider when evaluating a project for a physical component, technology, or technique that will improve eligible user access?**

- (a) In evaluating a proposed project under the criterion at § 85.51(c)(1), we consider whether the project will increase the availability of the BIG-funded facility for eligible users or improve eligible boater access to the facility by:
  - (1) Using a new technology or technique; or
  - (2) Applying a new use of an existing technology or technique.
- (b) We will not award points for following access standards set by law.
- (c) We will consider if you choose to complete the project using an optional or advanced technology or technique that will improve access, or if you go beyond the minimum requirements.
- (d) To receive consideration for this criterion, you must describe in the grant application the current standard and how you will exceed the standard.

**§ 86.59 What does the Service consider when evaluating a project for innovative physical components, technology, or techniques that improve the BIG project?**

- (a) In evaluating a proposed project under the criterion at § 86.51(c)(2), we consider if the project will include physical components, technology, or techniques that are:
  - (1) Newly available; or
  - (2) Repurposed in a unique way.
- (b) Examples of the type of innovations we will consider are components, technology, or techniques that:
  - (1) Extend the useful life of the BIG-funded project;
  - (2) Are designed to allow the operator to save costs, decrease maintenance, or improve operation;
  - (3) Are designed to improve BIG-eligible services or amenities;
  - (4) Reduce the carbon footprint of the BIG-funded facility. *Carbon footprint* means the impact of the total set of greenhouse gas emissions;
  - (5) Are used during construction specifically to reduce negative environmental impacts, beyond compliance requirements; or
  - (6) Improve facility resilience.

**§ 86.60 What does the Service consider when evaluating a project for demonstrating a commitment to environmental compliance, sustainability, and stewardship?**

- (a) In evaluating a project under the criterion at § 86.51(c)(3), we consider if the application documents that the facility where the BIG-funded project is located has received official recognition for its voluntary commitment to environmental compliance, sustainability, and stewardship by exceeding regulatory requirements.
- (b) The official recognition must be part of a voluntary, established program administered by a Federal or State agency, local governmental agency, Sea Grant or equivalent entity, or a State or Regional marina organization.

- (c) The established program must require the facility to use management and operational techniques and practices that will ensure it continues to meet the high standards of the program and must contain a component that requires periodic review.
- (d) The facility must have met the criteria required by the established program and received official recognition by the due date of the application.

### **§ 86.61 What happens after the Director approves projects for funding?**

- (a) After the Director approves projects for funding, we notify successful applicants of the:
  - (1) Amount of the grant;
  - (2) Documents or clarifications required, including those required for compliance with applicable laws and regulations;
  - (3) Approvals needed and format for processing approvals; and
  - (4) Time constraints.
- (b) After we receive the required forms and documents, we approve the project and the terms of the grant and obligate the grant in the Federal financial management system.
- (c) BIG funds are available for Federal obligation for 3 Federal fiscal years, starting October 1 of the fiscal year that funds become available for award. We do not make a Federal obligation until you meet the grant requirements. Funds not obligated within 3 fiscal years are no longer available.

## **Subpart F - Grant Administration**

### **§ 86.70 What standards must I follow when constructing a BIG-funded facility?**

- (a) You must design and build a BIG-funded facility so that each structure meets Federal, State, and local standards.
- (b) A Region or a State may require you to have plans reviewed by a subject-matter expert if there are questions as to the safety, structural stability, durability, or other construction concerns for projects that will cost more than \$100,000.

### **§ 86.71 How much time do I have to complete the work funded by a BIG grant?**

- (a) We must obligate a grant within 3 Federal fiscal years of the beginning of the Federal fiscal award year.
- (b) We will work with you to set a start date within the 3-year period of obligation. We assign a period of performance that is no longer than 3 years from the grant start date.
- (c) You must complete your project within the period of performance unless you ask for and receive a grant extension.

### **§ 86.72 What if I cannot complete the project during the period of performance?**

- (a) If you cannot complete the project during the 3-year period of performance, you may ask us for an extension. Your request must be in writing, and we must receive it before the end of the original period of performance.
- (b) An extension is considered a revision of a grant and must follow guidance at § 86.101.



- (c) We will approve an extension up to 2 years if your request:
  - (1) Describes in detail the work you have completed and the work that you plan to complete during the extension;
  - (2) Explains the reasons for delay;
  - (3) Includes a report on the status of the project budget; and
  - (4) Includes assurance that you have met or will meet all other terms and conditions of the grant.
- (d) If you cannot complete the project during the extension period, you may ask us for a second extension. Your request must be in writing, and we must receive it before the end of the first extension. Your request for a second extension must include all of the information required at paragraph (b) of this section and, it must show that:
  - (1) The extension is justified;
  - (2) The delay in completion is not due to inaction, poor planning, or mismanagement; and
  - (3) You will achieve the project objectives by the end of the second extension.
- (e) We require that the Regional Director and the Service's Assistant Director for the Wildlife and Sport Fish Restoration Program approve requests to extend a project beyond 5 years of the grant start date.

**§ 86.73 How long must I operate and maintain a BIG-funded facility, and who is responsible for the cost of facility operation and maintenance?**

- (a) You must operate and maintain a BIG-funded facility for its authorized purpose for its useful life. See §§ 86.3, 86.43(f), and 86.74.
- (b) Catastrophic events may shorten the useful life of a BIG-funded facility. If it is not feasible or is cost-prohibitive to repair or replace the BIG-funded facility, you may ask to revise the grant to reduce the useful-life obligation.
- (c) You are responsible for the costs of the operation and maintenance of the BIG-funded facility for its useful life, except as allowed at § 86.14(b).

**§ 86.74 How do I determine the useful life of a BIG-funded facility?**

You must determine the useful life of your BIG-funded project using the following:

- (a) You must give an informed estimate of the useful life of the BIG-funded project in your grant application, including the information in Steps 1, 2, and 3, in paragraphs (a)(1) through (3) of this section, as applicable.
  - (1) **Step 1.** Identify all capital improvements that are proposed in your project. We may reject your application if you do not include an estimate for useful life.
    - (i) Use the definition of *capital improvement* at § 86.3.
    - (ii) The capital improvement must be a structure or system that serves an identified purpose.
    - (iii) Consider the function of the components in your application and group those with a similar purpose together as structures or systems.

- (iv) All auxiliary components of your project (those that are not directly part of the structure or system) must be identified as necessary for the continued use of an identified capital improvement. For example, a gangway is not part of the dock system, but is necessary for access to and from the dock system, so it could be included in the useful life of the dock system.
- (v) Attach an auxiliary component as identified at paragraph (a)(1)(iv) of this section to only one capital improvement. If it supports more than one, choose the one with the longest useful life.
- (vi) Examples of structures or systems that could potentially make up a single capital improvement are a: Rest room/shower building; dock system; breakwater; seawall; basin, as altered by dredging; or fuel station.

(2) **Step 2.** Estimate the useful life of each capital improvement identified in Step 1 in paragraph (a)(1) of this section.

- (i) State how you determine the useful life estimate.
- (ii) Identify factors that may influence the useful life of the identified capital improvement, such as: Marine environment, wave action, weather conditions, and heavy usage.
- (iii) Examples of sources to obtain estimates for useful life information when developing your application are: Vendors, engineers, contractors, or others with expertise or experience with a capital improvement.

(3) **Step 3.** If you are asking us to consider additional points for a physical component, technology, or technique under the criterion at § 86.51(c) that will increase the useful life, you must describe in your application:

- (i) The capital improvement or component that you will apply the criterion at § 86.51(c) to;
- (ii) The expected increase in useful life;
- (iii) The sources of information that support your determination of an extended useful life; and
- (iv) A description of how you expect the useful life will be increased.

(b) After you submit your application, but before we award your grant, you must:

- (1) Confirm the useful life for each capital improvement using a generally accepted method.
- (2) Provide any additional documents or information, if we request it.
- (3) Consult and obtain agreement for your final useful life determinations at the State or Regional level, or both.
- (4) Revise your application, as needed, to include the final useful life determination(s).

(c) If we find before we award the grant that you are unable to support your determination of an extended useful life at § 86.51(c), we will reduce your score and adjust the ranking of applications accordingly.

(d) You must finalize useful life in your grant by one of the following methods:

- (i) State several useful-life expectations, one for each individual capital improvement you identified at paragraph (a)(1) of this section; or

(ii) State a single useful life for the whole project, based on the longest useful life of the capital improvements you identified at paragraph (a)(1) of this section.

- (e) States may decide to use only one of the methods described at paragraph (d) of this section for all BIG-funded projects in their State.

### § 86.75 How should I credit BIG?

- (a) You must use the Sport Fish Restoration logo to show the source of BIG funding:



- (b) Examples of language you may use to credit BIG are:

- (1) A Sport Fish Restoration-Boating Infrastructure Grant funded this facility thanks to your purchase of fishing equipment and motorboat fuel.
- (2) A Sport Fish Restoration-Boating Infrastructure Grant is funding this construction thanks to your purchase of fishing equipment and motorboat fuel.
- (3) A Sport Fish Restoration-Boating Infrastructure Grant funded this pamphlet thanks to your purchase of fishing equipment and motorboat fuel.

- (c) States may ask for approval of alternative language to follow ordinances and restrictions for posting information where the project is located.

### § 86.76 How can I use the logo for BIG?

- (a) You must use the Sport Fish Restoration logo on:

- (1) BIG-funded facilities;
- (2) Printed or Web-based material or other visual representations of BIG projects or achievements; and
- (3) BIG-funded or BIG-related educational and informational material.

- (b) You must require a subgrantee to display the logo in the places and on materials described at paragraph (a) of this section.

- (c) Businesses that contribute to or receive from the Trust Fund that we describe at § 86.30 may display the logo in conjunction with its associated products or projects.

- (d) The Assistant Director or Regional Director may authorize other persons, organizations, agencies, or governments not identified in this section to use the logo for purposes related to BIG by entering into a written agreement with the user. The user must state how it intends to use the logo, to what it will attach the logo, and the relationship to BIG.
- (e) The Service and the Department of the Interior make no representation or endorsement whatsoever by the display of the logo as to the quality, utility, suitability, or safety of any product, service, or project associated with the logo.
- (f) The user of the logo must indemnify and defend the United States and hold it harmless from any claims, suits, losses, and damages from:
  - (1) Any allegedly unauthorized use of any patent, process, idea, method, or device by the user in connection with its use of the logo, or any other alleged action of the user; and
  - (2) Any claims, suits, losses, and damages arising from alleged defects in the articles or services associated with the logo.
- (g) No one may use any part of the logo in any other manner unless the Service's Assistant Director for Wildlife and Sport Fish Restoration or Regional Director authorizes it. Unauthorized use of the logo is a violation of 18 U.S.C. 701 and subjects the violator to possible fines and imprisonment.

## § 86.77 How must I treat program income?

- (a) You must follow the applicable program income requirements at 2 CFR 200.80 and 200.307 if you earn program income during the period of performance.
- (b) We authorize the following options in the regulations cited at paragraph (a) of this section:
  - (1) You may deduct the costs of generating program income from the gross income if you did not charge these costs to the grant. An example of costs that may qualify for deduction is maintenance of the BIG-funded facility that generated the program income.
  - (2) Use the addition alternative for program income only if:
    - (i) You describe the source and amount of program income in the project statement according to § 86.43(k)(2); and
    - (ii) We approve your proposed use of the program income, which must be for one or more of the actions eligible for funding at § 86.11.
  - (3) Use the deduction alternative for program income that does not qualify under paragraph (b)(2) of this section.
- (c) We do not authorize the cost-sharing or matching alternative in the regulations cited at paragraph (a) of this section.
- (d) For BIG Tier 1-State grants with multiple projects that you may complete at different times, we recommend that States seek our advice on how to apply for and manage grants to reduce unintended program income.
- (e) If your project is completed before the end of the period of performance, we recommend you notify us and ask for advice on how to adjust the period of performance to manage potential program income.

## **§ 86.78 How must I treat income earned after the period of performance?**

You are not accountable to us for income earned by you or a subgrantee after the period of performance as a result of the grant except as required at §§ 86.90 and 86.91.

## **Subpart G - Facility Operations and Maintenance**

### **§ 86.90 How much must an operator of a BIG-funded facility charge for using the facility?**

- (a) An operator of a BIG-funded facility must charge reasonable fees for using the facility based on prevailing rates at other publicly and privately owned local facilities similarly situated and offering a similar service or amenity.
- (b) If other publicly and privately owned local facilities offer BIG-funded services or amenities free of charge, then a fee is not required.
- (c) If the BIG-funded facility has a State or locally imposed fee structure, we will accept the mandated fee structure if it is reasonable and does not impose an undue burden on eligible users.
- (d) You must state proposed fees and the basis for the fees in your grant application. The information you give may be in any format that clearly shows how you arrived at an equitable amount.

### **§ 86.91 May an operator of a BIG-funded facility increase or decrease user fees during its useful life?**

- (a) An operator of a BIG-funded facility may increase or decrease user fees during its useful life without our prior approval if they are consistent with prevailing market rates. The grantee may impose separate restrictions on an operator or subgrantee.
- (b) If the grantee or we discover that fees charged by the operator of a BIG-funded facility do not follow § 86.90 and the facility unfairly competes with other marinas or makes excessive profits, the grantee must notify the operator in writing. The operator must respond to the notice in writing, and either justify or correct the fee schedule. If the operator justifies the fee schedule, the grantee and we must allow reasonable business decisions and only call for a change in the fee schedule if the operator is unable to show that the increase or decrease is reasonable.

### **§ 86.92 Must an operator of a BIG-funded facility allow public access?**

- (a) **Public access** in this part means access by eligible users, for eligible activities, or by other users for other activities that either support the purpose of the BIG-funded project or do not interfere with the purpose of the BIG-funded project. An operator of a BIG-funded facility must not allow activities that interfere with the purpose of the project.
- (b) An operator of a BIG-funded facility must allow public access to any part of the BIG-funded facility during its useful life, except as described at paragraphs (e) and (f) of this section.
- (c) An operator of a BIG-funded facility must allow reasonable public access to other parts of the facility that would normally be open to the public and must not limit access in any way that discriminates against any member of the public.
- (d) The site of a BIG-funded facility must be:
  - (1) Accessible to the public; and

- (2) Open for reasonable periods.
- (e) An operator may temporarily limit public access to all or part of the BIG-funded facility due to an emergency, repairs, construction, or as a safety precaution.
- (f) An operator may limit public access when seasonally closed for business.

### **§ 86.93 May I prohibit overnight use by eligible vessels at a BIG-funded facility?**

You may prohibit overnight use at a BIG-funded facility if you state in the approved grant application that the facility is only for day use. If after we award the grant you wish to change to day use only, you must follow the requirements at subpart H of this part.

### **§ 86.94 Must I give information to eligible users and the public about BIG-funded facilities?**

- (a) You must give clear information using signs or other methods at BIG-funded facilities that:
  - (1) Direct eligible users to the BIG-funded facility;
  - (2) Include restrictions and operating periods or direct boaters where to find the information; and
  - (3) Restrict ineligible use at any part of the BIG-funded facility designated only for eligible use.
    - (i) You do not need to notify facility users of any restrictions for shared-use areas and amenities that you have already decided have predictable mixed use and you have allocated following § 86.19.
    - (ii) You must notify facility users of benefits that you decide are only for eligible users, such as boat slips and moorage.
- (b) You may use new technology and methods of communication to inform boaters.

## **Subpart H - Revisions and Appeals**

### **§ 86.100 Can I change the information in a grant application after I receive a grant?**

- (a) To change information in a grant application after you receive a grant, you must propose a revision of the grant and we must approve it.
- (b) We may approve a revision if:
  - (1) For BIG Tier 1 - State and BIG Tier 2 - National awards, the revision:
    - (i) Would not significantly decrease the benefits of the project; and
    - (ii) Would not increase Federal funds.
  - (2) For BIG Tier 2 - National awards, the revision:
    - (i) Involves process, materials, logistics, or other items that have no significant effect on the factors used to decide the score; and
    - (ii) Keeps an equal or greater percentage of the non-Federal matching share of the total BIG project costs.
- (c) We may approve a decrease in the Federal funds requested in the application subject to paragraph (b) of this section.

- (d) The Regional WSFR Office must follow its own procedures for review and approval of any changes to a BIG Tier 1 - State grant.
- (e) The Regional WSFR Office must receive approval from the WSFR Headquarters Office for any changes to a BIG Tier 2 - National grant that involves cost or affects project benefits.

### § 86.101 How do I ask for a revision of a grant?

- (a) You must ask for a revision of a grant by sending us the following documents:
  - (1) The standard form used to apply for Federal assistance, which is available at <http://www.grants.gov>. You must use this form to update or ask for a change in the information that you included in the approved grant application. The authorized representative of your agency must certify this form.
  - (2) A statement attached to the standard form at paragraph (a)(1) of this section that explains:
    - (i) The proposed changes and how the revision would affect the information that you submitted with the original grant application; and
    - (ii) Why the revision is necessary.
- (b) You must send any revision of the scope to your State Clearinghouse or Single Point of Contact if your State supports this process under Executive Order 12372, Intergovernmental Review of Federal Programs.

### § 86.102 Can I appeal a decision?

You can appeal the Director's, Assistant Director's, or Regional Director's decision on any matter subject to this part according to [2 CFR 200.341](#).

- (a) You must send the appeal to the Director within 30 calendar days of the date that the Director, Assistant Director, or Regional Director mails or otherwise informs you of a decision.
- (b) You may appeal the Director's decision under paragraph (a) of this section to the Secretary of the Interior within 30 calendar days of the date that the Director mailed the decision. An appeal to the Secretary must follow procedures at [43 CFR part 4, subpart G](#), "Special Rules Applicable to Other Appeals and Hearings."

### § 86.103 Can the Director authorize an exception to this part?

The Director can authorize an exception to any requirement of this part that is not explicitly required by law if it does not conflict with other laws or regulations or the policies of the Department of the Interior or the Office of Management and Budget (OMB).

## Subpart I - Information Collection

### § 86.110 What are the information-collection requirements of this part?

OMB has reviewed and approved the U.S. Fish and Wildlife information collection requirements (project narratives, reports, and amendments) in this part and assigned OMB Control No. 1018-0109. We 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. You may send comments on any aspect of the information collection requirements to the Service Information Collection Clearance Officer at the address provided at [50 CFR 2.1\(b\)](#).