

Specific Award Conditions

Award Number: NA23NMF4380388

Amendment Number: 0

1) New Award SAC

Award number NA23NMF4380388 supports the work described in the Recipient's proposal entitled "Idaho Salmon Recovery 2023" dated 03/01/2023 and revisions dated 06/16/2023, 06/23/2023, 08/01/2023 and 08/03/2023, which are incorporated into the award by reference. Where the terms of the award and proposal differ, the terms of the award shall prevail.

2) Matching Requirement

Since this award requires the Recipient to provide \$2,970,000.00 in project-related costs from non-Federal sources, the Recipient must maintain in its official accounting records an accounting of \$11,970,000.00.

3) Part 1 - Required Use of American Iron, Steel, Manufactured Products, and Construction Materials

Pursuant to the Infrastructure Investment and Jobs Act ("IIJA"), Pub.L. No. 117-58, which includes the Build America, Buy America (BABA) Act, Pub. L. No. 117-58, §§ 70901-52 and OMB M-22-11, recipients of an award of Federal financial assistance from the Department of Commerce (DOC) are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

1) all iron and steel used in the project are produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;

2) all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and

3) all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

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

To help federal agencies and recipients meet BABA requirements, the U.S. Department of Commerce, National Institute for Standards and Technology (NIST), Hollings Manufacturing Extension Partnership (MEP) National Network™ provides a service to connect stakeholders, including recipients, to U.S. manufacturers that have relevant production capabilities and capacities to help fulfill current market and supply chain needs. Recipients considering a BABA nonavailability waiver are strongly encouraged to contact the NIST/MEP for assistance with supplier scouting services prior to seeking a BABA nonavailability waiver. Further information on the NIST/MEP supplier scouting services is available at: <https://www.nist.gov/mep/supplier-scouting>.

4) Part 2 - Required Use of American Iron, Steel, Manufactured Products, and Construction Materials WAIVERS

When necessary, recipients may apply for, and DOC may grant, a waiver from these requirements. DOC will notify the recipient for information on the process for requesting a waiver from these requirements.

1) When DOC has made a determination that one of the following exceptions applies, the awarding official may waive the application of the domestic content procurement preference in any case in which DOC determines that:

- a. applying the domestic content procurement preference would be inconsistent with the public interest;
- b. the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
- c. the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

A request to waive the application of the domestic content procurement preference must be in writing. DOC will provide instructions on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Made in America Office.

There may be instances where an award qualifies, in whole or in part, for an existing waiver described at [whitehouse.gov/omb/management/made-in-america](https://www.whitehouse.gov/omb/management/made-in-america).

DEFINITIONS

“Construction materials” includes an article, material, or supply—other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives²—that is or consists primarily of: non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber; or drywall.

“Domestic content procurement preference” means all iron and steel used in the project are produced in the United States;

the manufactured products used in the project are produced in the United States; or the construction materials used in the project are produced in the United States.

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

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

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1 Excludes cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives.

2 IIJA, § 70917(c)(1).

5) Implementation of Domestic Sourcing Requirements

Prior to initiation of any construction that may arise in this award, the Recipient is required to inform the NOAA Grants Officer and the Federal Program Officer whether it is using iron, steel, manufactured products, or construction materials as described in the Specific Award Condition in this award on Required Use of American Iron, Steel, Manufactured Products, and Construction Materials. In addition, the Recipient is required to inform the NOAA Grants Officer and the Federal Program Officer whether those materials are produced or manufactured in the United States, or alternatively, it is requesting one or more waivers, as described in the award condition. The Recipient is required to coordinate with NOAA regarding its compliance with this term.

6) Signs

The recipient is responsible for constructing, erecting, and maintaining in good condition throughout the construction period a sign(s) satisfactory to NOAA that identifies the project and indicates that the project is Federally funded by the Bi-Partisan Infrastructure Law, and/or the Inflation Reduction Act (IRA). NOAA may require that the recipient maintain a permanent plaque or sign at the project site with the same or similar information. The temporary and permanent proposed signage implementation plans must be submitted to and approved by NOAA prior to installation.

7) Programmatic Matching Requirement

States are required to match or document in-kind contributions of at least thirty-three percent of the PCSRF grant funds. Matching funds must consist of 1) PCSRF projects funded totally or partially by state appropriated funds; 2) PCSRF projects that are funded totally or partially by sub-recipient or contractor funds; or, 3) PCSRF projects funded partially by other pre-approved sources of federal funding. Use of in-kind contributions as match must be approved, in advance, by the

PCSRF Program Administrator in the NMFS West Coast Regional Office. In-kind contributions must be applied directly to a PCSRF project in order to be considered match.

8) Infrastructure Investment and Jobs Act Requirement

Projects funded by the Infrastructure Investment and Jobs Act will be identified separately in the PCSRF database within 30 days from the date of project award and will be updated every 30 days thereafter.

9) Limitation on Program Administration Costs

The States and Tribal Commissions/Consortia must not expend more than three percent of the direct federal funds for administrative expenses (reported as Program Administration in the PCSRF database). Administrative expenses are defined as all costs, including direct and indirect costs, incurred by the State or Tribal Commission/Consortium in administering this grant and managing the distribution of the PCSRF grant funds to sub-recipients, contractors, programs, or projects that undertake PCSRF activities. Administrative expenses include activities such as sub-agreement and contracts management and monitoring including site visits, accounting, program oversight, program support and overhead costs, and competitive funding allocation processes including the processing and administrative review of project applications and proposals. However, for the purposes of this grant, State or Tribal Commission/Consortia expenses for PCSRF data management and reporting, and the entry of project information into the PCSRF web-based project tracking data management database system (found at <https://www.webapps.nwfsc.noaa.gov/apex/f?p=227:101>), will not be considered within the administrative expenses when it is reported as developing or maintaining restoration data systems under Category B in the PCSRF database.

The three percent administrative cost limitation applies to the total federal costs at the end of the grant award. However, since the majority of the grants administration costs may occur prior to total disbursement of grant funds, the State or Tribal Commission/Consortium may draw down the three percent PCSRF administrative funds as needed anytime during the grant award period.

10) Pacific Coastal Salmon Recovery Fund- Eligible Activities for Sub-recipients/Contracts

All work must adhere to the eligible activities as detailed in the data definitions for the PCSRF Project and Performance Metrics Database, found at <https://www.webapps.nwfsc.noaa.gov/j/Docs/PCSRF%20Data%20Dictionary%20ver20%2004-08-13.xlsx>. All subawards/contracts must comply with all applicable OMB Circulars (or Uniform Guidance), Federal regulations and guidance, and terms of this award. In the event of any audit discrepancy, costs associated with such discrepancy shall be considered unallowable unless resolved. In the event an audit determines a disallowance of cost, such amount shall also be considered unallowable.

11) Environmental Data Sharing

- Data Sharing: Environmental data collected or created under this Grant, Cooperative Agreement, or Contract must be

made publicly visible and accessible in a timely manner, free of charge or at minimal cost that is no more than the cost of distribution to the user, except where limited by law, regulation, policy, or national security requirements. Data are to be made available in a form that would permit further analysis or reuse: data must be encoded in a machine-readable format, preferably using existing open format standards; data must be sufficiently documented, preferably using open metadata standards, to enable users to independently read and understand the data. The location (internet address) of the data should be included in the final report. Pursuant to NOAA Information Quality Guidelines,¹ data should undergo quality control (QC) and a description of the QC process and results should be referenced in the metadata.^{2,3}

- **Timeliness:** Data accessibility must occur no later than publication of a peer-reviewed article based on the data, or two years after the data are collected and verified, or two years after the original end date of the grant (not including any extensions or follow-on funding), whichever is soonest, unless a delay has been authorized by the NOAA funding program.
- **Disclaimer:** Data produced under this award and made available to the public must be accompanied by the following statement: "These data and related items of information have not been formally disseminated by NOAA, and do not represent any agency determination, view, or policy."
- **Failure to Share Data:** Failing or delaying to make environmental data accessible in accordance with the submitted Data Management Plan, unless authorized by the NOAA Program, may lead to enforcement actions, and will be considered by NOAA when making future award decisions. Funding recipients are responsible for ensuring these conditions are also met by sub-recipients and subcontractors.
- **Funding acknowledgement:** Federal funding sources shall be identified in all scholarly publications. An Acknowledgements section shall be included in the body of the publication stating the relevant Grant Programs and Award Numbers. In addition, funding sources shall be reported during the publication submission process using the FundRef mechanism (<http://www.crossref.org/fundref/>) if supported by the Publisher.
- **Manuscript submission:** The final pre-publication manuscripts of scholarly publications produced with NOAA funding shall be submitted to the NOAA Institutional Repository at <http://library.noaa.gov/repository> after acceptance, and no later than upon publication, of the paper by a journal. NOAA will produce a publicly-visible catalog entry directing users to the published version of the article. After an embargo period of one year after publication, NOAA shall make the manuscript itself publicly visible, free of charge, while continuing to direct users to the published version of record.
- **Data Citation:** Publications based on data, and new products derived from source data, must cite the data used according to the conventions of the Publisher, using unambiguous labels such as Digital Object Identifiers (DOIs). All data and derived products that are used to support the conclusions of a peer-reviewed publication must be made available in a form that permits verification and reproducibility of the results.

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1. http://www.cio.noaa.gov/services_programs/IQ_Guidelines_103014.html
 2. Failure to perform quality control does not constitute an excuse not to share data.
 3. Data without QC are considered "experimental products" and their dissemination must be accompanied by explicit limitations on their quality or by an indicated degree of uncertainty.

12) PCSRF Database System Progress Report Requirement

Project data must be entered into the PCSRF database within 30 days of project selection and the required data fields must be completed. Project data is to be updated in the database as project status changes or 30 days prior to submitting

semiannual performance reports. Semi-annual progress reports are to be generated by and downloaded from the PCSRF database and then completed for submission by completing the narrative section and uploading the report into Grants Online. All required data fields in the PCSRF database must be completed and reporting deficiencies must be rectified within 30 days of notice. The PCSRF database is accessible at <https://www.webapps.nwfsc.noaa.gov/apex/f?p=227:101>. Contact nwfsc.sdm@noaa.gov or call 206-860-3433 for a username/password to have access to the PCSRF database.

13) Performance Progress Reports

Interim semi-annual Project Progress Reports (generated from the PCSRF database) are due no later than 30 days after the semi-annual reporting periods ending March 31 and September 30 for the entire project period of the award. A final Project Progress Report, also generated from the PCSRF database, is due within 90 days after award expiration. The report shall cover the last semi-annual reporting period ending on September 30 or March 31, or a portion thereof, based on the award expiration.

Project highlights with photographs are to be provided annually as part of the semi-annual progress reporting period ending on September 30. Recipients must submit project highlights with photographs for at least one, and up to three, completed projects. If an award includes more than one project, recipients must submit at least three project highlights with photographs. Project highlights shall be submitted as an attachment, in addition to the standard PCSRF database reporting, in the GOL system.