

Wildlife Crossings Pilot Program Questions and Answers

The Wildlife Crossings Pilot Program (WCPP) Questions and Answers (Q&A) provide guidance on the WCPP established under Section 11123(b) of the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. No. 117-58, November 15, 2021), also known as the Bipartisan Infrastructure Law (BIL), and codified at Title 23, United States Code (U.S.C.), Section 171.

This Q&A was last updated on June 6, 2024. As appropriate, new Q&As will follow within their respective sections, including answers to questions submitted to the WCPP mailbox at wildlifecrossings@dot.gov.

Except for the statutes and regulations cited, the contents of this document do not have the force and effect of law and are not meant to bind the States or the public in any way. This document is intended only to provide information regarding existing requirements under the law or agency policies.

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1. Program Overview

Q 1.1: What is the purpose of this program?

The purpose of the WCPP is to provide competitive grants for projects that seek to reduce the number of Wildlife Vehicle Collisions (WVCs) and, in doing so, improve habitat connectivity for terrestrial and aquatic species (23 U.S.C. 171(b)). WVCs pose a danger to human safety and are a major threat to the survival of species.

Q 1.2: Can this program provide funds for projects that reduce WVCs that involve one species and improve habitat connectivity for a different species?

Yes. To receive funding, applications must demonstrate that the project is likely to improve safety by reducing the number of WVCs and is likely to improve terrestrial and aquatic habitat connectivity (*see* NOFO Sections E.1. and E.2.b.i). Applicants should identify the species that are impacted by the reduction in WVCs per Criterion #1.1 and the species that are impacted by the improvement to habitat connectivity per Criterion #1.2; however, these do not need to be the same species. For example, an eligible project could seek to reduce the number of WVCs between vehicles and terrestrial wildlife while also seeking to improve habitat connectivity for aquatic species.

Q 1.3: Is this program limited to providing funds for projects that benefit certain species?

No. There is no intrinsic limitation in the WCPP on what species need to be benefited for a project to receive funding. It is important to note, however, that applications must demonstrate that the project is likely to improve safety by reducing the number of WVCs and is likely to improve terrestrial and aquatic habitat connectivity to receive funding (*see* NOFO Sections E.1.a and E.2.b.i). Applicants may, for example, demonstrate that a project targeted towards larger species will improve safety by reducing WVCs that are direct impacts between motorists and wildlife. Alternatively, applicants may demonstrate that a project targeted towards smaller species will improve safety by reducing roadway departures for motorists that seek to avoid a collision with the species.

2. Terminology

Q 2.1: What is the definition of wildlife within the context of the WCPP?

For the purposes of the WCPP, FHWA considers wildlife to be native wild animals. Livestock, domesticated animals, and animals with domesticated ancestors are not wildlife.

Q 2.2: What is the definition of vehicle within the context of the WCPP?

For the purposes of the WCPP, FHWA considers a vehicle as referring to a motor vehicle operating on a roadway (*see* 23 U.S.C. 171(a)(2)(B), 171(e)(1)).

Q 2.3: How will FHWA determine if a WCPP project is located in a rural area if it spans across both rural and urban areas?

For the purposes of the WCPP, all locations not entirely designated as urban will be considered rural. FHWA will consider projects that are in both urban and rural areas as rural. The definition of “rural areas” is found in 23 U.S.C. 101(a)(25) and refers to all areas of a State that are not urban areas. For the purpose of this notice, in line with 23 U.S.C. 101(a)(35), an urban area is an FHWA Adjusted Urban Area, a map of which can be found at: [National Highway System | HEPGIS \(arccgis.com\)](#).

Q 2.4: Where can I find a list of endangered species or threatened species?

Section 4 of the Endangered Species Act of 1973 authorizes listing Endangered and Threatened species (16 U.S.C. 1533). The listings can be found at Title 50, Code of Federal Regulations (CFR), Part 17.11. A directory of Endangered and Threatened species, which includes those under the National Marine Fisheries jurisdiction, can be found at: [Species Directory | ESA Threatened and Endangered](#). A directory of Endangered and Threatened species and related resources under the jurisdiction of the U.S. Fish and Wildlife Service can be found under [Listed Species Reports](#).

3. Funding

Q 3.1: When can funds be expended after an award is announced?

Funds will be available for eligible grant activities after a grant agreement is signed and fully executed, which could take several months after awards are announced. Unless authorized by FHWA in writing, expenses incurred prior to the full execution of a WCPP grant agreement are not eligible for reimbursement (see Section D.2.C.ii of the NOFO for more information).

Q 3.2: When do funds need to be obligated and expended?

Funds must be obligated within 3 years of the end of the fiscal year for which the funds are authorized (23 U.S.C. 118(b)). For the FY 2022 and FY 2023 NOFO, this means that FY 2022 funds must be obligated by September 30, 2025, and FY 2023 funds must be obligated by September 30, 2026. For FY 2024 – FY 2026 NOFO, this means that FY 2024 funds must be obligated by September 30, 2027, FY 2025 funds must be obligated by September 30, 2028, and FY 2026 funds must be obligated by September 30, 2029.

Obligation of a WCPP grant occurs after a selected applicant enters a grant agreement with the FHWA and FHWA authorizes the project to proceed. For construction, this is generally after the applicant has satisfied applicable administrative requirements, including transportation planning; environmental review requirements, including those under the National Environmental Policy Act (NEPA); real property and right-of-way acquisition in accordance with 49 CFR part 24 and 23 CFR part 710; and compliance with 23 CFR 635 subpart C “Physical Construction Authorization” for State department of transportation (State DOT) applicants or 2 CFR 200.318 – 327 for non-State DOT applicants.

If a WCPP grant includes pre-construction and construction activities, FHWA may obligate funding in phases to provide funding for specific activities where administrative requirements are not required or have already been met. For example, FHWA may use a phased obligation to obligate funding at the execution of a grant agreement for environmental review activities and then obligate funding for construction once the environmental review activities are completed.

FHWA may define timelines and deadlines for obligation and expenditure of funds in individual grant agreements.

Q 3.3: How are previously expended funds considered in the application?

Previously expended funds from any source that contribute to the overall cost of the project should be included in a project's budget, but FHWA will not consider such expended funds as counting towards a project's non-Federal matching share (*see* Section B.2 of the NOFO). In addition, previously expended Federal funds will not be considered by FHWA when evaluating the extent, a project is likely to leverage Federal investment by encouraging non-Federal contributions to the projects under Criterion 2.1. Under 23 U.S.C. 171(e)(2)(A), this criterion is meant to consider the extent to which a project "is likely" to leverage Federal investment to encourage additional non-Federal funding. FHWA interprets this language to only refer to future non-Federal contributions, such as those provided under public-private partnerships, that are provided after execution of a WCPP grant agreement.

Q 3.4: What flexibilities are there for providing non-Federal share (match) funds?

According to 23 U.S.C. 120(b), except as otherwise provided in 23 U.S.C., the Federal share is 80 percent, and all applicants must provide 20 percent of the total project cost (not 20 percent of the Federal share or 20 percent of any one project component) as match. Unless specifically authorized by statute, Federal funds cannot be used to satisfy non-Federal share. Examples of Federal funds that Congress has specifically authorized in statute to be used as matching share include funds from the Tribal Transportation Program under 23 U.S.C. 202 and the Federal Lands Transportation Program under 23 U.S.C. 203 per 23 U.S.C. 120(k). In addition, 23 U.S.C. 120(j) provides that any Federal funds, other than funds made available under either Title 23 or Title 49, U.S.C., may be used to pay the non-Federal share to pay the cost of any transportation project that is within, adjacent to, or provides access to Federal land. If the applicant believes a different funding source can be used toward the matching share, applicants should provide a statutory citation and justification. FHWA will make the final determination on the match funding required for each awarded project.

The Federal share may increase beyond 80 percent on a sliding scale based on the amount of Tribal and public lands in the State per 23 U.S.C. 120(b)(2). See <https://www.fhwa.dot.gov/legsregs/directives/notices/n4540-12.cfm> for information and tables with the adjusted percentages. FHWA recommends that applicants verify the applicable percentage with the appropriate State department of transportation (State DOT) or FHWA Division prior to submitting an application.

Applicants must provide a sufficient matching share to be eligible to receive WCPP funds and should document cost sharing in their application. If the applicant believes a different matching share applies, applicants should provide a justification as to why that Federal share percentage applies and documentation indicating their ability to provide that alternative matching share. FHWA, however, will make the final determination on the match percentage required for each awarded project. For that reason, FHWA recommends that applicants include their ability to provide the 20 percent match under 23 U.S.C. 120(b), since applications that do not provide a sufficient matching share will not be eligible to receive WCPP funds.

All matching share contributions must conform with the requirements of 23 U.S.C. 120 and 2 CFR 200.306. In addition, previously incurred costs or previously expended funds will not count towards the matching requirement (*see* Section C.2 of the NOFO).

For additional information on match, see https://www.fhwa.dot.gov/bipartisan-infrastructure-law/fedshare_fact_sheet.cfm.

4. Project Types and Eligible Activities

Q 4.1: What types of projects and activities is FHWA seeking for this program?

FHWA is seeking to award all types of projects that are likely to protect motorists and wildlife by reducing the number of WVCs and improving habitat connectivity for terrestrial and aquatic species, including construction and non-construction projects. For a list of examples of different kinds of WCPP projects, see Section B.4 of the NOFO.

Eligible project grant activities may include, but are not limited to, the following activities:

- Research and analysis;
- Statewide plans;
- Preliminary planning activities and studies;
- Public outreach;
- Predevelopment/preconstruction;
- Preliminary engineering and design work;
- Acquisition of real property, easements, and rights-of-way;
- Environmental review and permitting activities, including the completion of the NEPA process;
- Infrastructure preservation, rehabilitation, reconstruction, and replacement;
- Construction activities and contingencies;
- Environmental mitigation;
- Operations;
- Monitoring and reporting; and
- Other administrative activities.

All activities must conform to all applicable requirements, including those in 23 U.S.C. and 2 CFR Part 200. Applicants must include all eligible activities and costs that are associated with the project as part of their application.

WCPP funds may be used to purchase equipment such as cameras and detection systems for monitoring. WCPP funds cannot be used to fund maintenance activities. Per 23 U.S.C. 116(b), it is the duty of the State DOT or other recipient to maintain, or cause to be maintained, any WCPP Project.

Q 4.2: Can Wildlife Crossings Program funds be used for one component of a larger project?

Yes. While WCPP funds can be used to fund a standalone project, they can also be used to fund components of a larger project. FHWA also recognizes that some potential projects may focus on subsets of activities within the project development lifecycle (e.g., just environmental studies and reviews or preliminary engineering) or propose to build upon or complete project activities (e.g., construction of a project after its design has been completed). FHWA will allow proposed projects that include one or multiple such subsets.

FHWA will evaluate projects against the WCPP criteria. Projects which require future action may not be able to demonstrate the same likelihood of achieving project criteria. The entire project must comply with all applicable requirements.

Q 4.3: Does the project need to be physically located on a roadway?

No. The project does not need to be physically located on a roadway, but the project does need to demonstrate a reduction in WVCs with motorists on the roadway (23 U.S.C. 171(a)(2)(B), 171(f)(1)). A roadway includes any Tribal, Federal, State, or local transportation facility that allows motor vehicle transportation. A roadway does not include a bicycle or pedestrian path that prohibits motor vehicles.

Q 4.4: Are mitigation activities for new or existing highway projects eligible under this grant program?

Yes. Mitigation of habitat caused or expected to be caused by highway projects funded under Title 23, U.S.C. are eligible activities under this grant program per 23 CFR part 777. Advance and compensatory mitigation activities are eligible per 23 CFR 777.5 and 23 CFR 777.9(d).

5. Grant Application

Q 5.1: When multiple eligible applicants that are subject to different requirements submit a joint application, what requirements does the project have to follow?

Such applications must identify a lead applicant as the primary point of contact (POC) who will be the primary recipient of the award (*see* Section C.1 of the NOFO). The requirements that apply to the primary recipient will apply to the joint application and any subsequent grant award. FHWA will issue one award to the primary recipient who will enter into a grant agreement with FHWA to receive the funds. The other eligible applicants joining with the lead applicant may be listed as subrecipients in the grant agreement.

Q 5.2: What constitutes documentation of consultation with the State DOT?

All applicants, other than Federal Land Management Agencies (FLMA), State DOTs, and Tribal applicants for projects entirely located on Tribal lands, must include documentation of consulting with the State DOT in which the applicant is located (*see* 23 U.S.C. 171(d)(2) and Section C.3.b of the NOFO).

Examples of documentation of consultation with the State DOT include, but are not limited to, letters, agreements, and signed meeting minutes.

For grants to any eligible entity besides an FLMA or Tribe, the State DOT for the State in which the project is to be carried out will administer the grant (23 U.S.C. 171(f)(2)(A)(ii)). While FHWA does not require an applicant to form an agreement with the State DOT to administer the project during the consultation process, FHWA encourages applicants to do so.

FHWA will review the level of consultation with the State DOT and the extent to which an applicant has shown that a State DOT has agreed to administer a proposed project in evaluating project readiness as part of the WCPP evaluation process.

Q 5.3: Is my application subject to review by my State under the E. O. 12372 process per item #19 on SF-424?

No. Select option c. for item #19: “Program is not covered by E.O. 12372.”

Q 5.4: Is the Application Checklist provided as Attachment A of the NOFO a submission requirement?

No. The Application Checklist is a tool that can assist applicants to ensure their application is complete. The Application Checklist is not required to be submitted with the application, and its submission alone does not constitute a complete application.

6. Grant Administration

Q 6.1: How will grants be administered where the lead applicant is an MPO, unit of local government, regional transportation authority, or special purpose district or public authority with a transportation function?

The State DOT in which the project is located must administer the WCPP grant for MPOs, units of local government, regional transportation authorities, or special purpose districts or public authorities (23 U.S.C. 171(f)(2)(A)(ii)). For these entities, the State DOT must either directly administer the project on behalf of the entity or administer and oversee the project by serving as a pass-through entity for the entity. Reimbursement of WCPP funds and stewardship and oversight for these entities will be performed between the State and the appropriate FHWA State Division Office.

Per 23 U.S.C. 171(f)(2)(A)(ii), FHWA cannot award a grant to these entities if the State DOT does not agree to administer the grant. For such entities that receive awards, FHWA expects to

work with the appropriate State DOT and entity during the grant agreement stage; however, FHWA encourages applicants to proactively discuss administration with the appropriate State DOT before submitting an application to ensure that funds can be awarded. While FHWA is statutorily required to administer grants for FLMAs and Tribes (23 U.S.C. 171(f)(2)(A)(i)), all other applicants may not request FHWA to directly administer the grant.

Q 6.2: How will grants be administered where FLMAs or Tribes are the lead applicant?

FHWA must administer the grant for FLMAs and Tribes (23 U.S.C. 171(f)(2)(A)(i)). Funds will be administered via an advanced payment upon the execution of a grant agreement with the FHWA or through existing agreements with oversight from the FHWA Office of Federal Lands Highway. FLMAs and Tribes may not request a State DOT to administer the grant. The terms of advance payment will be specific to each grant agreement. FHWA does not expect to provide all funds in advance, and typically funds are provided on an agreed upon frequency, such as annually or quarterly throughout the life of the grant agreement. FLMAs and Tribes that receive awards are expected to provide information on obligations and expenditures for the previous quarter (or other period) and ask for the funding for the next quarter based upon accurate estimates.

Q 6.3: What is the deadline to complete the project?

While FHWA will specify a period of performance for each project, there are no program limitations on the duration of projects. It should be noted again, however, that funds need to be obligated by FHWA within 3 years after the end of the fiscal year in which funding was provided (23 U.S.C. 118(b)), which means a grant agreement needs to be signed and fully executed within that timeline. Once the grant agreement is executed, the project can continue until the funds are expended or the period of performance is reached. FHWA will work with individual applicants to determine the appropriate timeline and interim milestones for each project, as some activities such as research and monitoring may take several years to complete, which are allowable.

Q 6.4: What requirements are there for post construction monitoring and adaptive management?

If applicable, the terms for post construction monitoring and adaptive management will be specific to each grant agreement, and the grant agreement will specify responsible parties, timelines, and requirements. New wildlife crossing structures may require ongoing monitoring and adaptive management, such as mitigation site monitoring activities for effectiveness.

Q 6.5: To whom can grant recipients provide funds?

Grant recipients can provide funds to Eligible Partners, subrecipients, and contractors. The WCPP includes statutory language allowing WCPP funds to be provided to Eligible Partners (23 U.S.C. 171(f)(2)). That provision includes a list of Eligible Partners (23 U.S.C. 171(f)(2)(B)(i)-(ii)); however, a grant recipient may enter into an agreement with subrecipients that are not specifically included on that list. If a grant recipient enters into an agreement with an Eligible Partner, that grant recipient must establish measures to verify that an Eligible Partner that

receives WCPP funds complies with the conditions of the WCPP in using those funds (23 U.S.C. 171(f)(3)).

This provision creates the same relationship between a grant recipient and an Eligible Partner as would exist if the grant recipient was acting as a pass-through entity to a subrecipient. In either case, the grant recipient must ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of any subaward (23 U.S.C. 171(f)(2)(B); 2 CFR 200.332(d)). Regardless of whether a grant recipient forms a partnership or provides a subaward, the grant recipient remains responsible for program compliance with program requirements, performance measures, and terms and conditions, as specified in the grant agreement.

Grant recipients or subrecipients may provide WCPP funds to a contractor to provide property or services needed to carry out the project (*see* 2 CFR 200.1).