

ASSOCIATION OF FISH AND WILDLIFE AGENCIES'

**VENDOR CONTRACT
(Using Federal Funds)**

WITH THE

**Company Name
Contact Name
Address
City, State Zip Code
Phone Number**

FOR THE

NAME OF GRANT (Grant Number, e.g. MSCGP # DC M-XX-X)

In consideration of the mutual promises herein, the **ASSOCIATION OF FISH AND WILDLIFE AGENCIES** and the [**COMPANY NAME**] agree as follows. This agreement consists of the provisions set forth below, as well as Appendix A (Scope of Services), entitled, "[**Name of Document**]."

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Section 1. Definitions.

In this agreement:

- A. "Appendix A" refers to the Scope of Services, entitled "[XX]."
- B. "Association" means the Association of Fish and Wildlife Agencies.
- C. "Contractor" means the [Company Name].
- D. "Federal Awarding Agency" means the [Federal Agency name, e.g. United States Department of the Interior, Fish and Wildlife Service].
- E. "[Grant Number]" means the [Grant Program, e.g. Multistate Conservation Grant] project entitled, "[Grant Title]."

Section 2. Purpose.

[Insert brief project description, e.g. "The Association has been awarded a grant under the Multistate Conservation Grant Program (CFDA 15.628) from the USFWS for one-year project entitled "XX." The purpose of the project is to analyze fishing license data in order to provide states with strategies to boost angler numbers, increase participation rates, and improve customer communications and satisfaction. The [Company Name] was competitively selected to provide goods and/or services consistent with the Association's federal grant, DC M-XX-X. The [Company Name]'s proposal is attached hereto and hereafter known as the Scope of Services (Appendix A)."] ...OR, in rare instances, the last two sentences might be replaced with "The [Company Name] was identified as a contractor in the Association's federal grant, DC M-XX-X, attached hereto and hereafter known as the Scope of Services (Appendix A)."]

Section 3. Scope of Services.

- A. The Contractor shall perform services in accordance with the goals, objectives, and deliverables as set forth in the Scope of Services (Appendix A).
- B. The Association shall not allow any claim for services other than those described in the attached Appendix A. However, the Contractor may provide, at its own expense, any other services that are consistent with this agreement and all laws and regulations governing this project.

Section 4. Relationship of Parties.

The Contractor shall perform its obligations hereunder as an independent contractor of the Association. The Contractor is not to be considered an agent or employee of the Association for any purpose, and is not entitled to any of the benefits that the Association provides for its employees. The Association may administer the agreement and monitor the Contractor's compliance with its obligations hereunder. The Association shall not supervise or direct the Contractor other than as provided in this section.

Section 5. Time for Performance.

- A. This agreement becomes effective when signed by both parties.
- B. The Contractor shall commence performance of the work described in Section 3 upon execution of the agreement by the Association, and complete that performance on or before [Contract expiration date; be sure this is on or before the expiration date of Association's federal grant].
- C. This agreement may be extended upon approval of mutual consent of the parties, the Federal Awarding Agency, and continued project funding.

Section 6. Payment Terms.

- A. The maximum amount available is \$[X; be sure this is less than the federal award to the Association and is reduced by Association's overhead.]
- B. The funds shall be spent consistent with Attachment A and the federal regulations governing this agreement (see Section 9, "Comply with all Laws, Regulations, and Policies"). The Contractor is responsible for requesting approval from the Association for deviations from the budget and proposal plans that require prior approval, pursuant to 2 CFR 215.25.
- C. The Contractor shall submit monthly, original invoices to the Association for costs of the work performed during the billing cycle. The Association shall reimburse the Contractor for work performed to the Association's satisfaction upon receipt of an original invoice. Final invoices should be indicated as such and its payment by the Association shall release further claims of the Contractor. All invoices should include itemized expenses for the period and itemized cumulative expenses.
- D. As a condition of payment, the Contractor shall submit reports specified in Section 8, "Reporting Requirements."

- E. As an additional condition of payment, the Contractor shall have paid all taxes due and owing by the Contractor.
- F. The Contractor is not entitled to any compensation or other benefits under this agreement, other than is expressly provided for in this section.

Section 7. Availability of Funds.

Payments under this agreement may require funds from granting cycles and are subject to future awards. If sufficient funds are not appropriated for payments required under this agreement, this agreement shall terminate without penalty to the Association, and the Association shall not be obligated to make payments under this agreement beyond those that have previously been appropriated.

Section 8. Reporting Requirements.

Choose the most appropriate language:

The Contractor shall prepare and file with the Association monthly status reports, which should coincide with monthly invoice submission.

-And/or-

The Contractor [also] shall prepare and file with the Association [quarterly] performance reports as required under the [Name of grant program, e.g. Multistate Conservation Grant Program]. Reports must be received by the Association within twenty-five (25) days after the end of each [quarter]. The annual performance report and any financial information must be received in this office within sixty (60) days after the closing of the grant (December 31, 2006) and by no means later than [February 28, 2007].

Section 9. Comply with all Laws, Regulations, and Policies.

The Contractor agrees to comply with all applicable laws, regulations, and policies set out in 2 CFR 215, Appendix A, "Contract Provisions." These "Contract Provisions" are incorporated by reference as if fully set forth verbatim herein. The Contractor shall provide the Association with certification regarding debarment, suspension, ineligibility, and voluntary exclusion. [Be aware of this requirement – have contractor sign IAFWA's certification form].

While not specifically required to comply with federal grant program requirements, the Contractor shall ensure that its transactions are allowable, reasonable, and allocable as specified in:

- A. 2 CFR 215 (formerly OMB Circular A-110), “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and other Non-Profit Organizations;” and
- B. 2 CFR 230 (formerly OMB Circular A-122), “Cost Principles for Non-profit Organizations.”

Section 10. Additional Requirements.

In the event that any funding source for this agreement should impose additional requirements upon the Association for the use of those funds, the Contractor agrees to abide by those additional requirements immediately upon receipt of written notice thereof from the Association. Furthermore, if in conflict, the prime award (or that between the Association and the Federal Awarding Agency) takes precedence over this contract.

Section 11. Inspection and Retention of Records.

The Contractor shall, at any time during normal business hours and as often as the Association may deem necessary, make available to the Association, for examination, all of its records with respect to all matters covered by this agreement for a period ending three years from the date the Association submits the final expenditure report to the Federal Awarding Agency (in accordance with 2 CFR 215.48 and 2 CFR 215.53). Upon request, and within a reasonable time, the Contractor shall submit such other information and reports relating to its activities under this agreement, to the Association, in such form and at such times as the Association may reasonably require. The Contractor shall permit the Association to audit, examine, and make copies of such records; and to make audits of all invoices, materials, payrolls, records of personnel, and other data relating to all matters covered by this agreement. The Association may, at its option, permit the Contractor to submit its records to the Association in lieu of the retention requirements of this section.

Section 12. Ownership and Use of Data, Material, and Equipment.

- A. Except as otherwise allowed by this agreement or by reference in the Scope of Services (Appendix A), all data, books, photographs, papers, records, and other similar materials (collectively the “Works”) produced by the Contractor under this agreement shall be the property of the Association, which shall retain the exclusive right to copyright, publish, disclose, distribute, and otherwise use, in whole or in part, any such Works. Exclusive rights shall not be attributed to portions of such Works presently in the public domain or which are not subject to copyright. Any determination of what is or is not in the public domain is at the discretion of the Association.
- B. The Contractor warrants to the Association that the Contractor shall not infringe the intellectual property rights of others in the performance of this Contract and agrees to indemnify the Association and hold it harmless pursuant to Section 21 of this Contract.

- C. All equipment purchased with federal funds as a direct cost to this project is the property of the Association. [Please evaluate this statement because exemptions may be allowed in certain situations like for research grants, in which case the contractor could retain ownership if so desired.] Equipment should be returned to the Association within 90 days of the completion or termination of this contract, unless written approval to do otherwise has been granted by the Association’s Executive Vice President.
- D. [Include confidentiality statement if work includes collecting data. E.g. “Furthermore, the Contractor acknowledges the confidentiality of the [license] data [that it collects from each participating state and regional association] and agrees that it will not use this information now, or at any time in the future, for any other purpose other than that set out in Scope of Services (Appendix A) pursuant to this agreement. [For all states providing licensee names and addresses,] none of this data will be released to any other party for any reason, nor will it be used for any purpose other than described in the Scope of Services (Appendix A).”]
- E. Any oral or written presentations, reports, books, publications, or other products generated under this grant must acknowledge the Association as well as the [Federal Awarding Agency (e.g., for a Multistate Conservation grant, state: “Sport Fish and Wildlife Restoration Programs of the USFWS)], pursuant to the Stevens Amendment to P.L. 100-463. Please contact the Association for the appropriate logos.

Section 13. Assignments.

Any assignment by the Contractor of its interest in any part of this agreement or any delegation of duties under this agreement shall be void unless agreed to in writing by the Association. Any attempt by the Contractor to assign any part of its interest or delegate duties under this agreement without prior written approval by the Association shall give the Association the right immediately to terminate this agreement without any liability for work performed.

Section 14. Subcontracts.

The Contractor may enter into subcontracts for the purchase of goods and services necessary for the performance of this agreement, provided:

- A. Every subcontract shall be reduced to writing and contain a precise description of the services or goods to be provided and the nature of the consideration paid therefore. If subawarding or contracting is not described in the Scope of Services (Appendix A) then prior approval is required from the Association (see Section 6).
- B. Procurement of subcontractors shall be in accordance with 2 CFR 215.40 – 215.48, and with the Contractor’s own procurement policies and procedures.

- C. The Contractor is responsible for managing and monitoring each project, program, subaward, function, or activity supported by this agreement, pursuant to 43 CFR 12.951. The Contractor agrees to ensure any contracts with subcontractors contain the procurement policies set out in 2 CFR 215, Appendix A, "Contract Provisions."

Section 15. Permits, Laws, and Taxes.

The Contractor shall acquire and maintain in good standing all permits, licenses, and other entitlements necessary to its performance under this agreement. All actions taken by the Contractor under this agreement shall comply with all applicable statutes, ordinances, rules, and regulations. The Contractor shall pay all taxes pertaining to its performance under this agreement.

Section 16. Insurance.

The Contractor shall maintain insurance, in good standing, that is appropriate for local, state, or federal employees; equipment provided with federal funds; and risk management.

Section 17. Jurisdiction; Choice of Law.

This Agreement shall be governed and construed in accordance with the District of Columbia laws.

Section 18. Complete Agreement.

This instrument and all appendices and amendments hereto embody the complete agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this agreement shall supersede all previous communications, representations, or agreements, either oral or written, between the parties hereto.

Section 19. Nonwaiver.

The failure of either party at any time to enforce a provision of this agreement shall in no way constitute a waiver of the provision, nor in any way affect the validity of this agreement or any part hereof, or the right of such party thereafter to enforce each and every provision hereof.

Section 20. Severability.

Any provision of this agreement decreed invalid by a court of competent jurisdiction shall not invalidate the remaining provisions of the agreement.

Section 21. Liability.

The Contractor shall indemnify, defend, save, and hold the Association harmless from any and all claims, lawsuits or liability, including attorneys' fees and costs, allegedly arising out of loss, damage, or injury to persons or property; or from any wrongful or negligent act, error, or omission of Contractor, Contractor's agents, employees, subcontractors, or invitees, occurring during the course of, or as a result of the Contractor's, Contractor's agents, employees, contractors, subcontractors, or invitees performance pursuant to this agreement.

Section 22. Amendment.

- A. This agreement shall only be amended, modified, or changed by writing, executed by authorized representatives of the parties, with the same formality as this agreement was executed.
- B. For the purposes of any amendment modification or change to the terms and conditions of this agreement, the only authorized representatives of the parties are:

Contractor: Vice President or President & CEO

Association: Executive Vice President

- C. Any attempt to amend, modify, or change this agreement by either an unauthorized representative or unauthorized means shall be void.

Section 23. Suspension or Termination of the Contractor's Services.

- A. This Contract may be suspended or terminated:
 - 1. If the Contractor materially fails to comply with any term of the award, suspension or termination may occur, in accordance with 2 CFR 215.60 – 215.62.
 - 2. By the Association with the Contractor's consent; or by the Association's or Contractor's written notification to the other party setting forth the reasons for such termination, in accordance with 2 CFR 215.61.
 - 3. Due to force majeure, which shall be considered an act or event of substantial magnitude beyond the control of the Contractor, in accordance with 2 CFR 215.48. This includes acts of God, or acts of a public enemy; order of court, administrative agencies, or governmental officers outside the Association; or any interruption, suspension, or interference resulting solely from the act of

the Association or neglect of the Association not otherwise governed by the terms of this agreement.

- B. If the Association terminates the Contractor's services for convenience, the Association shall pay the Contractor for its actual costs reasonably incurred in performing before termination. Payment under this subsection shall never exceed the compensation allowable under Section 6. All finished and unfinished documents and materials prepared by the Contractor shall become the property of the Association.
- C. If the Contractor's services are suspended or terminated for cause, all costs of Contractor resulting from obligations incurred by the Contractor during a suspension or after termination of an award are not allowable unless the Association expressly authorizes them in the notice of suspension or termination or subsequently. Other Contractor costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if:
 - 1. The costs result from obligations which were properly incurred by the Contractor before the effective date of suspension or termination, are not in anticipation of it, and, in the case of a termination, are non-cancelable, and,
 - 2. The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.

Any finished or unfinished documents or materials prepared by the Contractor under this agreement shall become the property of the Association at its option.

- D. If the Contractor receives payments exceeding the amount to which it is entitled under subsections B or C of this section, they shall remit the excess to the Association within thirty (30) days of receiving notice to do so.
- E. The Contractor shall not be entitled to any compensation under this section until the Contractor has delivered to the Association all documents, records, work product, materials, and equipment owned by the Association and requested by the Association. The Contractor's status/performance reports shall also be current.
- F. If the Contractor's services are terminated, for whatever reason, the Contractor shall not claim any compensation under this agreement, other than that allowed under this section.
- G. Where a final audit has not been performed before the Contractor's services are terminated, the Association may recover any payments for costs disallowed as a result of the final audit.
- H. Except as provided in this section, termination of the Contractor's services under this section does not affect any other right or obligation of a party under this agreement.

Section 24. Notices.

Any notice required pertaining to the subject matter of this agreement shall be either sent via facsimile (FAX) or mailed by prepaid first class registered or certified mail, return receipt requested to the following addresses:

Association: Association of Fish and Wildlife Agencies
444 North Capitol Street, NW, Suite 725
Washington, DC 20001
FAX: (202) 624-7891
PHONE: (202) 624-7890

Contractor: Company Name
Address
City, State Zip Code
FAX: (XXX) XXX-XXXX
PHONE: (XXX) XXX-XXXX

Notices are effective upon the earlier of receipt, proof of good transmission (facsimiles only), or five (5) days after proof of proper posting.

IN WITNESS WHEREOF, the parties have executed this agreement on the date and at the place shown below.

John Baughman
Executive Vice President
Association

[Contact Name]
[Title]
[Company Acronym]

Date

Date

Check List for Contractors

- Signed contract
- Completed and signed IRS W-9 form
- Signed certification regarding debarment, suspension, ineligibility, and voluntary exclusion
- Obtained or know how to obtain referenced federal regulations

Please fully complete the required forms and return to:

[PROJECT MANAGER NAME]
ASSOCIATION OF FISH & WILDLIFE AGENCIES
444 N Capitol Street, NW, Suite 725
Washington, DC 20001

Request for Taxpayer Identification Number and Certification

**Give form to the
 requester. Do not
 send to the IRS.**

Print or type See Specific Instructions on page 2	Name (as shown on your income tax return)	
	Business name, if different from above	
	Check appropriate box: <input type="checkbox"/> Individual/ Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Other ▶	
	<input type="checkbox"/> Exempt from backup withholding	
	Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
City, state, and ZIP code		
List account number(s) here (optional)		

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number									

or

Employer identification number									

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. person (including a U.S. resident alien).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 4.)

Sign Here	Signature of U.S. person ▶	Date ▶
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Purpose of Form

A person who is required to file an information return with the IRS, must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

U.S. person. Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

For federal tax purposes you are considered a person if you are:

- An individual who is a citizen or resident of the United States,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States, or

- Any estate (other than a foreign estate) or trust. See Regulations sections 301.7701-6(a) and 7(a) for additional information.

Foreign person. If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien.

Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the recipient has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.

4. The type and amount of income that qualifies for the exemption from tax.

5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments (after December 31, 2002). This is called "backup withholding." Payments that may be subject to backup withholding include interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester, or
2. You do not certify your TIN when required (see the Part II instructions on page 4 for details), or
3. The IRS tells the requester that you furnished an incorrect TIN, or
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate Instructions for the Requester of Form W-9.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name

If you are an individual, you must generally enter the name shown on your social security card. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

Sole proprietor. Enter your individual name as shown on your social security card on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name" line.

Limited liability company (LLC). If you are a single-member LLC (including a foreign LLC with a domestic owner) that is disregarded as an entity separate from its owner under Treasury regulations section 301.7701-3, enter the owner's name on the "Name" line. Enter the LLC's name on the "Business name" line. Check the appropriate box for your filing status (sole proprietor, corporation, etc.), then check the box for "Other" and enter "LLC" in the space provided.

Other entities. Enter your business name as shown on required Federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name" line.

Note. You are requested to check the appropriate box for your status (individual/sole proprietor, corporation, etc.).

Exempt From Backup Withholding

If you are exempt, enter your name as described above and check the appropriate box for your status, then check the "Exempt from backup withholding" box in the line following the business name, sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

Note. If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

Exempt payees. Backup withholding is not required on any payments made to the following payees:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2),
2. The United States or any of its agencies or instrumentalities,
3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities,
4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or
5. An international organization or any of its agencies or instrumentalities.

Other payees that may be exempt from backup withholding include:

6. A corporation,

- 7. A foreign central bank of issue,
- 8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,
- 9. A futures commission merchant registered with the Commodity Futures Trading Commission,
- 10. A real estate investment trust,
- 11. An entity registered at all times during the tax year under the Investment Company Act of 1940,
- 12. A common trust fund operated by a bank under section 584(a),
- 13. A financial institution,
- 14. A middleman known in the investment community as a nominee or custodian, or
- 15. A trust exempt from tax under section 664 or described in section 4947.

The chart below shows types of payments that may be exempt from backup withholding. The chart applies to the exempt recipients listed above, 1 through 15.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt recipients except for 9
Broker transactions	Exempt recipients 1 through 13. Also, a person registered under the Investment Advisers Act of 1940 who regularly acts as a broker
Barter exchange transactions and patronage dividends	Exempt recipients 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt recipients 1 through 7 ²

¹See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation (including gross proceeds paid to an attorney under section 6045(f), even if the attorney is a corporation) and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees; and payments for services paid by a Federal executive agency.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-owner LLC that is disregarded as an entity separate from its owner (see *Limited liability company (LLC)* on page 2), enter your SSN (or EIN, if you have one). If the LLC is a corporation, partnership, etc., enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at www.socialsecurity.gov/online/ss-5.pdf. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses/ and clicking on Employer ID Numbers under Related Topics. You can get Forms W-7 and SS-4 from the IRS by visiting www.irs.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Writing "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, and 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). Exempt recipients, see *Exempt From Backup Withholding* on page 2.

Signature requirements. Complete the certification as indicated in 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ¹
b. So-called trust account that is not a legal or valid trust under state law	The actual owner ¹
5. Sole proprietorship or single-owner LLC	The owner ³
For this type of account:	Give name and EIN of:
6. Sole proprietorship or single-owner LLC	The owner ³
7. A valid trust, estate, or pension trust	Legal entity ⁴
8. Corporate or LLC electing corporate status on Form 8832	The corporation
9. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
10. Partnership or multi-member LLC	The partnership
11. A broker or registered nominee	The broker or nominee
12. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or "DBA" name on the second name line. You may use either your SSN or EIN (if you have one). If you are a sole proprietor, IRS encourages you to use your SSN.

⁴ List first and circle the name of the legal trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.)

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA, or Archer MSA or HSA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. The IRS may also provide this information to the Department of Justice for civil and criminal litigation, and to cities, states, and the District of Columbia to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You must provide your TIN whether or not you are required to file a tax return. Payers must generally withhold 28% of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to a payer. Certain penalties may also apply.

**Certification Regarding
Debarment, Suspension, Ineligibility, and Voluntary Exclusion**

When using federal funds, the Association of Fish and Wildlife Agencies (Association) is prohibited from contracting with parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs (referred to as the "Excluded Parties List" and found at: <http://epls.gov>). It is the Association's policy to obtain certification from all contractors when federal funds are involved.

BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE.

("Debarred and Suspended" requirements are imposed by agencies' regulations implementing the Uniform Administrative Regulations (2 CFR 215, Appendix A, Executive Order 12549 and 12689 section), and can be found in the common rule for nonprocurement (2 CFR 180; 68 FR 66533) and the Federal Acquisition Regulations for procurement (48 CFR Subpart 9.4)).

I certify, as an authorized representative of the contractor hired by the Association of Fish and Wildlife Agencies, that neither the organization nor its principals are presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

Where the organization is unable to certify to any of the statements in this certification, the organization shall attach an explanation to this certification.

[Insert Name of Authorized Representative] Date Signed
[Insert Title]
[Insert Organization Name]

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal, the contractor is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the contractor knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the federal agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The contractor shall provide immediate written notice to the person to which this proposal is submitted if at any time the contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549 and 12689. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations (13 CFR Part 145).
5. The contractor agrees by submitting this certification that, should the proposed covered transaction be entered into, it shall not knowingly enter into any sub-contract with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. A contractor in a covered transaction may rely upon a written certification of a sub-contractor covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A contractor may decide the method and frequency by which it determines the eligibility of its principals. Each contractor may, but is not required to, check the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs.
7. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
8. Except for transactions authorized under paragraph 5 of these instructions, if a contractor in a covered transaction knowingly enters into a sub-contract with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the federal agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

§215.73

2 CFR Ch. II (1-105 Edition)

§215.73 Collection of amounts due.

(a) Any funds paid to a recipient in excess of the amount to which the recipient is finally determined to be entitled under the terms and conditions of the award constitute a debt to the Federal Government. If not paid within a reasonable period after the demand for payment, the Federal awarding agency may reduce the debt by paragraphs (a)(1), (2) or (3) of this section.

(1) Making an administrative offset against other requests for reimbursements.

(2) Withholding advance payments otherwise due to the recipient.

(3) Taking other action permitted by statute.

(b) Except as otherwise provided by law, the Federal awarding agency shall charge interest on an overdue debt in accordance with 4 CFR Chapter II, "Federal Claims Collection Standards."

APPENDIX A TO PART 215—CONTRACT PROVISIONS

All contracts, awarded by a recipient including small purchases, shall contain the following provisions as applicable:

1. *Equal Employment Opportunity*—All contracts shall contain a provision requiring compliance with E.O. 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR, 1964-1965 Comp., p. 339), as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

2. *Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c)*—All contracts and subgrants in excess of \$2000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.

3. *Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7)*—When required by Federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than \$2000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal awarding agency.

4. *Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333)*—Where applicable, all contracts awarded by recipients in excess of \$2000 for construction contracts and in excess of \$2500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

5. *Rights to Inventions Made Under a Contract or Agreement*—Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

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6. *Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended*—Contracts and subgrants of amounts in excess of \$100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

7. *Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)*—Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with ob-

taining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

8. *Debarment and Suspension (E.O.s 12549 and 12689)*—No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

PARTS 216–299 [RESERVED]