

Culvert AOP Grant Program NOFO

**U.S. DEPARTMENT OF TRANSPORTATION**

**Federal Highway Administration**

**Notice of Funding Opportunity for Fiscal Year 2022 National Culvert Removal, Replacement, and Restoration Grant Program (Culvert AOP Program)**

**AGENCY:** Office of the Secretary of Transportation, U.S. Department of Transportation (DOT).

**ACTION:** Notice of Funding Opportunity (NOFO)

**SUMMARY:**

The purpose of this Notice of Funding Opportunity (NOFO) is to solicit applications for the National Culvert Removal, Replacement, and Restoration Grant Program. The program is referred to in this notice as the Culvert Aquatic Organism Passage (AOP) Program. Grants under the Culvert AOP Program will result in the distribution of up to \$196 million<sup>1</sup> in Federal Fiscal Year (FY) 2022 funding.

Funds made available for FY 2022 for the Culvert AOP Program are to be awarded on a competitive basis for the replacement, removal, repair, and improvement of culverts or weirs that would meaningfully improve or restore fish passage for anadromous fish. See 49 U.S.C § 6703. This notice describes the application requirements, selection and evaluation criteria; applicable program and Federal requirements; and available technical assistance during the grant solicitation period.

**DATES:**

Applications must be submitted electronically through [Grants.gov](https://www.grants.gov) no later than 11:59 p.m., Eastern Time, on February 6, 2023 (the “application deadline”). Applicants are encouraged to submit applications in advance of the application deadline; however, applications will not be evaluated, and awards will not be made, until after the application deadline.

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<sup>1</sup> Section 21203(i) of BIL authorizes to be appropriated \$800,000,000 to carry out the program for each of FY 2022 through 2026. The Consolidated Appropriations Act, 2022 (Pub. L. 117-103) did not appropriate additional funding for this program. Under Title VIII of Division J of BIL an additional amount of \$1,000,000,000 was appropriated and is to remain available until expended for the Culvert AOP Program, as authorized by 49 U.S.C. § 6703, provided that \$200,000,000 is to remain available until expended for each individual FY 2022 through 2026. Due to the 2 percent authorized for administrative expenses necessary to carry out the program under 49 U.S.C. § 6703, \$196 million is available for award.

DOT plans to conduct outreach regarding the Culvert AOP Program in the form of a virtual meeting on October 26, 2022, at 1:30 to 3:00 p.m., Eastern Time. The Webinar will be conducted in cooperation with the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS). To join the Webinar, register by following the instructions posted on [Culvert AOP Program Website \(FHWA\)](#). The Webinar will be recorded and posted on DOT's Website at [Culvert AOP Program Website \(FHWA\)](#). A Telephone Device for the Deaf (TDD) is available for individuals who are deaf or hard of hearing at 202-366-3993.

**ADDRESSES:**

Applications must be submitted electronically through [Grants.gov](#). Refer to Assistance Listing (formerly known as the Catalog of Federal Domestic Assistance Number (CFDA)): 20.205, Highway Planning and Construction.

**FOR FURTHER INFORMATION:**

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Office hours are from 7:30 a.m. to 4:00 p.m., Eastern Time, Monday through Friday, except Federal holidays.

DOT will not review applications in advance, but DOT staff are available for technical questions and assistance prior to the application deadline. To ensure applicants receive accurate information about eligibility for the program, the applicant is encouraged to contact DOT well in advance of the application deadline and to contact DOT directly, rather than through intermediaries or third parties, with questions.

**SUPPLEMENTARY INFORMATION:**

Each section of this Notice contains information and instructions relevant to the application process for Culvert AOP Program grants. Applicants should read this Notice in its entirety so that they have the information they need to submit eligible and competitive applications.

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NOTE: DOT uses [Grants.gov](https://www.grants.gov) for receipt of all applications. Applicants must register and use the system to submit applications electronically. Applicants are encouraged to register in advance of the submission deadline and to register to receive notifications of updates/amendments to this notice. Approval of user registrations for the site may take multiple weeks. It is the Applicant’s responsibility to monitor this site for any updates to this notice.

## SECTION A - PROGRAM DESCRIPTION

### 1. Overview

The Infrastructure Investment and Jobs Act of 2021 (Pub. L. 117-58, November 15, 2021, “Bipartisan Infrastructure Law,” or “BIL”) appropriated \$200 million,<sup>2</sup> annually, for Federal FY 2022 through 2026 to be awarded by DOT for Aquatic Organism Passage (AOP) under the National Culvert Removal, Replacement, and Restoration Grant Program grants under 49 U.S.C. § 6703 (Culvert AOP Program). The program provides competitive grants for the replacement, removal, and repair of culverts or weirs that: (1) would meaningfully improve or restore fish passage for [anadromous fish](#); and (2) with respect to weirs, may include (A) infrastructure to facilitate anadromous fish passage around or over the weir; and (B) weir improvements (49 U.S.C. § 6703(b)). The Culvert AOP Program seeks applications from States and a diverse array of local units of government and [Indian Tribes](#) regardless of size, location, and experience administering Federal funding awards who are seeking projects to improve or restore fish passage for anadromous fish.

The total amount of funding available in this NOFO for FY 2022 is up to \$196 million. The FY 2022 funding will be implemented in alignment with the priorities in Executive Order (EO) 14052, *Implementation of the Infrastructure Investment and Jobs Act* ([86 FR 64355](#)).

The primary goal of the Culvert AOP Program is to improve or restore anadromous fish passage through the replacement, removal, repair, or improvement of culverts or weirs. The grant program prioritizes projects that would improve fish passage for: (A) anadromous fish stocks listed as an endangered species or a threatened species under section 4 of the Endangered Species Act of 1973 (16 U.S.C. § 1533); (B) anadromous fish stocks identified by the NMFS or the USFWS that could reasonably become listed as an endangered species or a threatened species under that section; (C) anadromous fish stocks identified by the NMFS or the USFWS as prey for endangered species, threatened species, or protected species, including southern resident orcas (*Orcinus orca*); or (D) anadromous fish stocks identified by the NMFS or the USFWS as climate resilient stocks (49 U.S.C. § 6703(e)(1)).<sup>3</sup> The program also prioritizes projects that would open up more than 200 meters of upstream (anadromous) habitat before the end of the natural habitat (49 U.S.C. § 6703(e)(2)).

The Culvert AOP Program aligns with Biden-Harris Administration policies and priorities, including DOT’s Strategic Plan goals of Safety, Economic Strength, Equity, Conservation,

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<sup>2</sup> Section 21203(i) of BIL authorizes to be appropriated \$800,000,000 to carry out the program for each of FY 2022 through 2026. The Consolidated Appropriations Act, 2022 (Pub. L. 117-103) did not appropriate additional funding for this program. Under Title VIII of Division J of BIL an additional amount of \$1,000,000,000 is to remain available until expended for the Culvert AOP Program, as authorized by 49 U.S.C. § 6703, provided that \$200,000,000 is to remain available until expended for each individual FY 2022 through 2026. Due to the 2 percent authorized for administrative expenses necessary to carry out the program under 49 U.S.C. § 6703, \$196 million is available for award.

<sup>3</sup> See definitions of these terms in Section H.4. These all refer to Federal classifications.

Climate and Sustainability, Transformation, and Organizational Excellence. The program will be implemented in line with Administration and Departmental policies and orders including the America the Beautiful Initiative; DOT Climate Action Plan<sup>4</sup>; DOT Equity Action Plan<sup>5</sup>; EO 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government* ([86 FR 7009](#)); EO 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* ([59 FR 7629](#)); EO 14008, *Tackling the Climate Crisis at Home and Abroad* ([86 FR 7619](#)); and EO 14030, *Climate Related Financial Risk* ([86 FR 27967](#)). Also, consistent with EO 14030 and EO 13690, *Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input* (80 FR 6425), project applicants should be aware that DOT is in the process of developing guidance and considering updates to its floodplain requirements, including redefining the appropriate flood hazard area to account for future climate conditions.

DOT seeks to fund projects under the Culvert AOP Program consistent with the program's statutory priorities. Section E provides more information on the specific statutory prioritization requirements. DOT also seeks to fund projects in coordination with other fish passage and conservation grant programs administered by the NMFS, USFWS, and other Federal agencies that received BIL funding. Through our collective Federal efforts and by working with our State local, and Tribal partners to identify priority areas for restoration, we expect that the product of our coordination will achieve greater conservation than the sum of our individual agency programs.

DOT also seeks to award projects under the Culvert AOP Program application that address climate change and sustainability along with environmental justice, particularly for communities (including rural and Tribal communities) that may disproportionately experience consequences from climate change and pollutants. Environmental justice, as defined by the U.S. Environmental Protection Agency (EPA), is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. As part of DOT's implementation of EO 14008, *Tackling the Climate Crisis at Home and Abroad* ([86 FR 7619](#)), DOT seeks to fund projects that, to the extent possible, reduce greenhouse gas emissions and are designed with specific elements to address climate change impacts. Section E provides more information on the specific measures a project can undertake in support of these goals, and DOT will consider during the review of applications.

DOT also seeks to award projects under the Culvert AOP Program application that proactively address equity and barriers to opportunity. Section E also describes equity considerations that an applicant can undertake and that DOT will consider during the review of applications. All

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<sup>4</sup> U.S. Department of Transportation Climate Action Plan  
[https://www.transportation.gov/sites/dot.gov/files/2022-04/Climate\\_Action\\_Plan.pdf](https://www.transportation.gov/sites/dot.gov/files/2022-04/Climate_Action_Plan.pdf)

<sup>5</sup> U.S. Department of Transportation Equity Action Plan  
<https://www.transportation.gov/priorities/equity/equity-action-plan>

projects must comply with Federal civil rights requirements. See Section F.2 of this NOFO for program requirements.

In addition, DOT intends to use the Culvert AOP Program opportunity to support the creation of good-paying jobs with the free and fair choice to join a union and the incorporation of strong labor standards and workforce programs, in particular registered apprenticeships, labor management partnerships, and Local Hire agreements,<sup>6</sup> in project planning stages and program delivery. Projects that incorporate such planning considerations are expected to support a strong economy and labor market. Projects that have not sufficiently considered job creation and labor considerations in their planning, as determined by DOT, will be required to do so to the full extent possible under the law before receiving funds for construction. See Section F.2 of this NOFO for program requirements.

Section E of this NOFO, which outlines 2022 Culvert AOP Program grant selection criteria, describes the process for selecting projects that further these goals. Section F.3 describes progress and performance reporting requirements for selected projects, including the relationship between that reporting and the program's selection criteria, and the Administration's goals, as appropriate.

## **2. Additional Information**

- i. The Culvert AOP Program grant is described in the Federal Assistance Listings under the assistance listing program title "Highway Planning and Construction" and assistance listing number 20.205.
- ii. DOT is committed to considering project funding decisions holistically among the various discretionary grant programs available in BIL. DOT also recognizes that applicants may be seeking funding from multiple discretionary grant programs and opportunities. An applicant may seek the same award amounts from multiple DOT discretionary opportunities or seek a combination of funding from multiple DOT opportunities.
  - a. The applicant should identify any other DOT programs and opportunities they intend to apply for (or utilize if the Federal funding is already available to the applicant), and what award amounts they will be seeking, in the appropriate sections of this NOFO, including Section D.2.b.II.

## **3. Technical Assistance**

Consistent with the policies described above and 49 U.S.C. § 6703(g), DOT, in coordination with USFWS and NMFS, will develop a process to deliver technical assistance to Indian Tribes

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<sup>6</sup> Section 25019(a)(1) of BIL allows States and other recipients and subrecipients to utilize local or other geographic and economic hiring preferences relating to the use of labor for construction of a project funded by a grant provided under title 49 of the U.S.C.

and underserved communities<sup>7</sup> to assist in the project design and grant process and procedures. To support applicants, DOT will provide technical assistance and interagency resources at [Culvert AOP Program Website \(FHWA\)](#).

Additional information and resources for technical assistance can be found on DOT Navigator (<https://www.transportation.gov/dot-navigator>) and the BIL Technical Assistance Webpage ([https://www.fhwa.dot.gov/bipartisan-infrastructure-law/technical\\_support.cfm](https://www.fhwa.dot.gov/bipartisan-infrastructure-law/technical_support.cfm)).

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<sup>7</sup> Under EO 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (86 FR 7009) the term “underserved communities” refers to populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life, as exemplified by the list in the definition of “equity” in the same Executive Order.



## SECTION B – FEDERAL AWARD INFORMATION

### 1. Award Amount Available

For FY 2022, a total of \$196 million is available for the Culvert AOP Program awards under this notice. If this solicitation does not result in the award and obligation of all available funds, DOT may publish additional solicitations. See Section C for Eligibility Information.

### 2. Award Size

There is no minimum or maximum award size for the FY 2022 Culvert AOP Program. In FY 2022, DOT anticipates awarding hundreds of Culvert AOP Program Grants with anticipated awards ranging from \$100,000 to \$2,000,000. DOT may also make awards outside of this range. DOT reserves the discretion to consider award sizes outside the anticipated award range listed above upon receiving the full pool of applications and assessing the needs of the program in relation to the Culvert AOP Program grant priorities in Section A.1 and considerations and criteria found in Section E.

### 3. Statutory Funding Provisions

#### a) Availability

Culvert AOP Program funds are available until expended.

#### b) Prohibited Use

Grant funds may not be used to support or oppose union organizing.

### 4. Type of Award

Grant agreements will be executed with the applicable DOT Operating Administration (such as the Federal Highway Administration (FHWA), Federal Transit Administration (FTA), or Federal Railroad Administration (FRA)). Procedures for grant administration may vary based on the DOT Operating Administration administering the grant. The applicable DOT Operating Administration may consider cooperative agreements on a case-by-case basis in which substantial involvement between the DOT Operating Administration and the recipient is anticipated.

Grant awards are administered on a reimbursement basis. Culvert AOP Program funds will reimburse recipients only for reasonable and authorized costs incurred and for work performed after a grant agreement has been executed, allowable expenses are incurred, and valid requests for reimbursement are submitted. At DOT's sole discretion alternative funding arrangements may be considered on a case-by-case basis.

Because award recipients under the Culvert AOP Program may be first-time recipients of Federal funding, DOT is committed to implementing the program as flexibly as permitted by statute and to providing assistance to help award recipients through the process of securing a grant agreement and delivering grants.

## **5. Period of Performance**

If a grant recipient will be a State department of transportation (State DOT) or if a State DOT will serve as a pass-through to a non-State DOT entity awarded a grant, the DOT Payment System will be “Current Bill” in the Federal Management Information System (FMIS) and the start of the period of performance will begin on the date Culvert AOP Program funds are obligated in FMIS and end on the project end date in FMIS.

If a grant recipient will be a non-State DOT entity, the DOT Payment System will be “DELPHI eInvoicing” and the start of the period of performance will begin on the date of the grant agreement executed by DOT which will obligate the Culvert AOP Program and end on the period of performance that is listed in the grant agreement.

Project shall generally be up to 5 years in length.

## **6. Data Collection and Monitoring Requirements**

Performance indicators used in reporting (See Section F.3) should align with project goals defined in Section E.1.a. DOT funds may be used for data collection, monitoring and performance reporting and should be accounted for in the applicant’s budget. Before establishing the grant agreement, DOT will work with grant recipients to determine the most appropriate indicators and metrics to assess project benefits. Indicators may document changes from an established baseline such as fish passage or available habitat (e.g., considering pre-project baselines or post-project outcomes). Other indicators or metrics may consist of monitoring or maintenance activities; including those proposed to be done after completion of project construction. Applicant must agree to provide the required data or access to right-of-way or adjacent stream and riparian corridors for long-term (see section F(3)(a)) data collection to DOT or partner agencies. As appropriate, applicant must agree to supply any supporting design reports outlining site conditions (e.g., geomorphic, and biological) (See Definition in Section H) and the constructed “as-built” plans including documented post-construction conditions specific to fish passage which will establish baseline conditions for future monitoring.

## SECTION C - ELIGIBILITY INFORMATION

To be selected for a grant, an applicant must meet the eligibility requirements under this Section C, including the following: Eligible Applicant; Eligible Project; and Statutory Cost Sharing or Match requirements. Applications that do not meet these threshold eligibility requirements will not be evaluated under criteria in Section E.

### 1. Eligible Applicants

Eligible Applicants are: (1) States; (2) a unit of local government; or an (3) Indian Tribe (49 U.S.C. § 6703(c)). For the purpose of this program and as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 5304), Indian Tribe means any Indian Tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) [43 U.S.C. § 1601 et seq.], which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians (49 U.S.C. § 6703(a)(2)).

DOT expects that the Eligible Applicant that submits the application will administer and deliver the project.

Multiple Eligible Applicants may submit a joint application. Such applications should identify a lead applicant as the primary point of contact and identify the primary recipient of the award. Joint applications should include a description of the roles and responsibilities of each applicant. Although not required, applicants without experience with DOT funding requirements may consider jointly applying with another Eligible Applicant with an established financial relationship with DOT and knowledge of Federal grant administration requirements, which may minimize delays in establishing and implementing funding agreements.

### 2. Cost Sharing or Matching

#### a) Cost-share for a State or a unit of local government

Per 49 U.S.C. § 6703(f), there is an 80 percent limit to the Federal share of the total project costs<sup>8</sup> of carrying out a project with a grant to a State or a unit of local government under the Culvert AOP Program. Recipients are required to contribute a local matching share of no less than 20 percent of eligible activities of the total project costs.

Additional information on non-Federal matching requirements can be found at <https://www.transportation.gov/grants/dot-navigator/understanding-non-federal-match-requirements>.

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<sup>8</sup> For example, on a \$5,000,000 project, the maximum Federal share would be \$4,000,000 (80 percent times \$5,000,000) and the minimum required matching would be \$1,000,000 (20 percent times \$5,000,000).

DOT will not consider previously incurred costs or previously expended or encumbered funds towards the matching requirement for any project. Matching funds are subject to the same Federal requirements described in Section F.2. as awarded funds.

See Section D.2.b.II for information about documenting cost sharing in the application.

For each project that receives a grant under this NOFO, DOT expects the project to be completed using at least the level of non-Federal funding that was specified in the application.

**b) Cost-share for Indian Tribes**

Indian Tribes are not required to provide a cost share under the Culvert AOP Program.

**3. Other**

**a) Number of Applications**

There is no limitation on the number of applications that may be submitted by an eligible applicant. Each application must be complete and be able to stand on its own merits. DOT encourages joint applications from Eligible Applicants with a lead applicant identified. An Eligible Entity may bundle two or more Eligible Projects as a single application.

**b) Eligible Projects**

Eligible Projects must: (1) meaningfully improve or restore fish passage for anadromous fish; and (2) involve the replacement, removal, or repair of culverts or weirs. With respect to weirs, an Eligible Project may also include infrastructure to facilitate fish passage around or over the weir and weir improvements. See 49 U.S.C. § 6703(b). Eligible Projects should also: (3) have a transportation nexus (*e.g.*, involve, relate to, or be situated in close proximity to a road/rail crossing, pipeline, highway, or other transportation infrastructure)<sup>9</sup>.

Eligible Project grant activities may include preliminary and detailed design activities and associated environmental studies; predevelopment/preconstruction; preliminary engineering; acquisition of rights-of-way; consultation and permitting activities; the National Environmental Policy Act (NEPA) process; the replacement, removal, or repair of culverts or weirs, or weir improvements; and the replacement of an eligible facility with a new facility that meaningfully restores fish passage. See 2 CFR § 200.403. DOT recognizes that some potential projects may focus on subsets of activities within project development (*e.g.*, environmental studies and reviews, preliminary engineering) or propose to complete project activities (*e.g.*, final design and construction). DOT will allow proposed projects that include subsets of these activities.

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<sup>9</sup> The Culvert AOP Program is located under Chapter 67, Multimodal Infrastructure Investments, of Title 49, Transportation, of the U.S.C.

Costs of replacing, removing, or repairing culverts or weirs that are the subject of a settlement agreement or court order<sup>10</sup> are eligible under the Culvert AOP Program, and are reimbursable if awarded a grant under this program and incurred pursuant to such award.

**c) Relevant Definitions**

See Section H.4 for definitions related to eligibility.

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<sup>10</sup> For example, the 2013 “Permanent Injunction Regarding Culvert Correction” issued by the U.S. District Court for the Western District of Washington.

## SECTION D – APPLICATION AND SUBMISSION INFORMATION

### 1. Address to Request Application Package

Instructions for submitting applications can be found at [Culvert AOP Program Website \(FHWA\)](#) along with specific instructions for the forms and attachments required for submission.

All application materials may be found on Grants.gov at <http://www.grants.gov>.

Once at Grants.gov, select the Search Grants tab. Then enter one of the following:

Opportunity Number: 2022 DOT Culvert AOP Program

Opportunity Name: FY 2022 National Culvert Removal, Replacement, and Restoration Grant Program

Assistance Listing Number: 20.205

When at one of these pages, select the Opportunity, which will open to a page with several tabs. The first tab is a synopsis of the Opportunity. Select the Application Package tab to download the forms needed to submit an FY 2022 Culvert AOP Program application.

For a TDD, please call (202) 366-3993. If potential applicants are unable to download the application package from the internet, they may send a written request for a paper copy to the below address. Requests should be sent to:

Rick Murray

Agreement Officer  
Office of Acquisition and Grants Management  
Federal Highway Administration  
U.S. Department of Transportation  
1200 New Jersey Ave., SE., Mailstop E62-204  
Washington, DC 20590-0001  
Email: [CulvertAOP@dot.gov](mailto:CulvertAOP@dot.gov) (preferred)  
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Phone: (202) 366-4004

Office hours are from 7:30 a.m. to 4:00 p.m., Eastern Time, Monday through Friday, except Federal holidays.

## 2. Content and Form of Application Submission

### a) Application

All applications must be submitted electronically through [Grants.gov](https://www.grants.gov).

The application must include the Standard Form 424 (Application for Federal Assistance), Standard Form 424C (Budget Information for Construction Programs) or Standard Form 424A (Budget Information for Non-Construction Programs) and a project narrative.

DOT specifies that the project narrative follow the outline below. Following the outline will also assist evaluators in locating relevant information.

- |  |             |
|--|-------------|
| I. Basic Project Information – Description, Location, and Parties  | See D.2.I   |
| II. Grant Funds, Sources and Uses of all Project Funding           | See D.2.II  |
| III. Project Selection Criteria                                    | See D.2.III |
| IV. Project Readiness and Environmental Review and Permitting Risk | See D.2.IV  |

The project narrative should provide information necessary for DOT to determine that the project satisfies project requirements described in Section C for the grant program and to assess the selection criteria specified in Section E.1.

To the extent practicable, applicants should provide supporting data and documentation in a form that is directly verifiable by DOT. DOT may, but is not required to, request additional information, including additional data, to clarify supporting data and documentation submitted in an application, but DOT encourages applicants to submit the most relevant and complete information they can provide. DOT also encourages applicants, to the extent practicable, to provide data in a form that is publicly available or verifiable.

To ensure a fair and unbiased evaluation of applications submitted under this notice, DOT will not request additional information if incomplete applications are received.

In addition to the information outlined in the Culvert AOP Program Application Template (provided as Attachment 1), applicants should submit a detailed statement of work, detailed project schedule, and detailed project budget. Applicants may submit a project narrative to support these project elements and should include a table of contents, maps, and graphics, as appropriate, to make the information easier to review.

DOT specifies that the project narrative be prepared with standard formatting preferences (i.e., a single-spaced document, using a standard 12-point font such as Times New Roman, with 1-inch margins). The project narrative must not exceed 25 pages in length. Appendices may only include documents supporting assertions or conclusions made in the 25-page project narrative and do not count towards the 25-page limit.

If possible, Website links to supporting documentation should be provided rather than copies of these supporting materials. If supporting documents are submitted, applicants should clearly identify within the project narrative the relevant portion of the project narrative that each

supporting document supports. DOT recommends using appropriately descriptive final names (e.g., “Project Narrative,” “Maps,” “Memoranda of Understanding and Letters of Support,” etc.) for the naming and titling of all attachments. DOT recommends applications include the following sections:

### **I. Basic Project Information – Project Description, Location, and Parties**

The applicant should provide a concise description of the project including a discussion of project’s history and a description of any previously incurred costs. The applicant should use this section to place the project into a broader conservation context, including identification of anadromous fish species and other important species that the project will benefit, existing conservation designations or plans for the watershed or project area, ecosystem restoration initiatives in the watershed or project area, and benefits of the project to ecosystem processes and functions, such as increasing ecological connectivity. The applicant may also use this section to place the project into the broader context of other infrastructure or fish passage investments being pursued or implemented by the project sponsor or other entities in the watershed, including other conservation and restoration grant programs administered by the NMFS, USFWS, and other Federal Agencies.

The applicant should describe in the application the project location, including a detailed geographical description of the proposed project, a map of the project’s location and connections to existing transportation infrastructure, and geospatial data (e.g., latitude and longitude). As a part of the project location the applicant should describe the proposed culvert or weir project in the context of other barriers in the watershed as well as other conservation projects or initiatives in the region. The application should also identify:

- (a) If the project is located within the boundary of a 2020 Census-designated Urbanized Area, the application should identify the Urbanized Area;<sup>11</sup> and
- (b) Whether the project is located in one of four federally designated community development zones (Opportunity Zones, Empowerment Zones, Promise Zones, or Choice Neighborhoods).

Information under (b) may be used for DOT’s internal data tracking.

This section of the application should provide details about the lead applicant. The details should include the lead applicant’s demonstrated experience with receipt and expenditure of DOT grant funds or other Federal funding sources such as program funds from DOT Operating Administrations, USFWS, or NMFS. DOT will consider the degree of experience as part of the project readiness evaluation. If an application is rated highly under other criteria, but the applicant has no or limited experience with the receipt and expenditure of grant funds from DOT

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<sup>11</sup> Lists of Urbanized Areas are available on the Census Bureau Website at [http://www2.census.gov/geo/maps/dc10map/UAUC\\_RefMap/ua/](http://www2.census.gov/geo/maps/dc10map/UAUC_RefMap/ua/)  
Maps are available at <https://tigerweb.geo.census.gov/tigerweb/>.



or its Operating Administrations, DOT may contact the applicant prior to final selection of FY 2022 awards to discuss technical resources that may be available to assist the applicant in obtaining the capacity and expertise to ensure compliance with all applicable Federal requirements and timely delivery of the project. The applicant should describe in detail all of the other public and private parties who are involved in delivering the project, including a specific description of the role of each entity in delivering the project and their experience with applicable AOP guidelines or standards.

The applicant should also include the information outlined in the Culvert AOP Program Application Template provided as Attachment 1.

## **II. Grant Funds, Sources and Uses of all Project Funding**

The applicant should describe the project's budget in detail and the plans for covering the full cost of the project from all sources (including the Federal share and non-Federal/matching share). The applicant should provide the following information.

**Federal Funds:** All Federal funds to be used for future eligible costs of the project, including the requested Culvert AOP Program grant amount, other Federal grants that have been awarded to the project or for which the project intends to apply in the future, and any Federal formula funds that have already been programmed for the project or are planned to be programmed for the project.

For each category of Federal funds to be used for future eligible project costs, the amount, nature, and source of any required non-Federal match for those funds.

**Detailed Budget:** The applicant should show how each funding source will share in each major activity and present those data in dollars and percentages. Funding sources should be grouped into three categories: (1) non-Federal/matching; (2) Culvert AOP Program Federal funds being requested; and (3) other Federal funds. If the project contains components, the budget should separate the costs of each project component. If the project will be completed in phases, the budget should separate the costs of each phase. The budget should be detailed enough to demonstrate that the project satisfies the Culvert AOP Program statutory cost-sharing requirements described in Section C.2 and those associated with each category of Federal funding. The application should include information showing that the applicant has budgeted sufficient contingency amounts to cover unanticipated cost increases. In addition to the information enumerated above, this section should provide complete information on how all project funds may be used. For example, if a source of funds is available only after a condition is satisfied, the application should identify that condition and describe the applicant's control over whether it is satisfied. Similarly, if a source of funds is available for expenditure only during a fixed period, the application should describe that restriction. Complete information about project funds will ensure that DOT's expectations for award execution align with any funding restrictions unrelated to DOT, even if an award differs from the applicant's request.

**Grant Funds and Sources/Uses of Project Funds:** The applicant should include information about the amount of Culvert AOP Program grant funding requested for the project, availability

and commitment of funds sources and uses of all project funds, total project costs, percentage of project costs that would be paid for with Culvert AOP Program funds, and the identity and percentage shares of all parties providing funds for the project (including Federal funds provided under other programs).

The application should include the following forms, submitted as individual PDF documents:

Standard Form 424 (Application for Federal Assistance) (mandatory);

Grants.gov Lobbying Form (mandatory);

Disclosure of Lobbying Activities form (Standard Form LLL) (mandatory);

Key Contacts (optional)

and either:

Standard Form 424A (Budget Information for Non-Construction Programs) (mandatory) and Standard Form 424B (Assurances for Non-Construction Programs) (mandatory);

or

Standard Form 424C (Budget Information for Construction Programs) (mandatory) and Standard Form 424D (Assurances for Construction Programs) (mandatory).

Applicants proposing non-construction-related projects should submit form Standard Form 424A with their application. Applicants proposing construction-related projects should submit form Standard Form 424C with their application.

Forms are available for download at <https://www.grants.gov/web/grants/forms/sf-424-mandatory-family.html>.

The Standard Form 424A or 424C (as applicable) must be supported by a budget narrative explaining each element of cost.

### **III. Project Selection Criteria**

The applicant should describe how the proposal meets the Project Selection Criteria listed in Section E.1.a.

### **IV. Project Readiness and Environmental Review and Permitting Risk**

The application should include information that, when considered with the project budget information, is sufficient for DOT to evaluate whether the project is reasonably expected to begin in a timely manner. To assist DOT's project readiness assessment, the applicant should provide the information requested on technical feasibility, project schedule, project approvals, and project risks, each of which is described in greater detail in the following sections.

Applicants are not required to follow the specific format described here, but this organization, which addresses each relevant aspect of project readiness, promotes a clear discussion that assists project evaluators.

**a) Technical Feasibility.**

The applicant should describe the technical feasibility of the project (e.g., conceptual, or proposed, engineering and design studies and activities); the application of design criteria, standards, or specifications as a basis of design; the basis for the cost estimate presented in the application, including the identification of contingency levels appropriate to its level of design; and any scope, schedule, and budget risk-mitigation measures. Applicants should include a detailed statement of work that focuses on the technical and engineering aspects of the project and describes in detail the project to be constructed.

**b) Project Schedule.**

The applicant should include a detailed project schedule that identifies all major project milestones. Examples of such milestones include State and local planning approvals (if applicable to the proposed project); start and scheduled completion of NEPA and other Federal environmental reviews and approvals, including permitting, design completion, right-of-way acquisition, approval of plans, specifications and estimates (PS&E); procurement; scheduled State and local approvals; project partnership and implementation agreements including agreements with railroads; and construction. The project schedule should be sufficiently detailed to demonstrate that:

- all necessary activities will be complete to allow Culvert AOP Program funds to be obligated<sup>12</sup> in a timely manner consistent with the proposed project schedule; and
- all real property and right-of-way acquisition necessary for the project will be completed in a timely manner in accordance with 49 CFR part 24 and other applicable legal requirements, including NEPA, or a statement that no acquisition is necessary. A plan for securing any required right-of-way agreements should be included. If applicable, this section should describe a right-of-way acquisition plan that minimally disrupts communities and maintains community cohesion.

**c) Required Approvals.**

**i. Environmental Permits and Reviews.** The application should provide documentation of receipt (or the schedule for anticipated receipt) of all environmental approvals and permits necessary for the project to meet the project delivery timeline specified in the project schedule, including satisfaction of all Federal, State, and local requirements and status of the NEPA process. Specifically, in this section the applicant may elaborate on the NEPA evaluation

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<sup>12</sup> Obligation for a Culvert AOP Program grant occurs when a selected applicant enters a project agreement with the DOT Operating Administration and the DOT Operating Administration authorizes the project to proceed. For construction, this is generally after the applicant has satisfied applicable administrative requirements, including transportation planning and environmental review requirements.

process. If the final agency action with respect to NEPA occurred more than three years before the application date, the applicant should describe a proposed approach for updating this material in accordance with applicable NEPA reconsideration requirements. This section should also provide the following information.

Any information on reviews, approvals, and permits by other Federal and State agencies. An application should indicate whether the proposed project requires reviews or approval actions by other agencies, indicate the status of such actions, and provide detailed information about the status of those reviews or approvals and should demonstrate compliance with any other applicable Federal, State, or local requirements, and when such approvals are expected. Applicants should provide a Website link or other reference to copies of any reviews, approvals, and permits prepared.

Environmental studies or other documents — preferably through a Website link — that describe in detail known project impacts, and possible mitigation for those impacts.

A description of discussions with DOT regarding the project's NEPA class of action and status of the NEPA process and other applicable Federal environmental reviews and approvals.

A description of public engagement about the project that has occurred, including details on the degree to which public comments and commitments have been integrated into project development and design, as well as of any future public engagement which is planned.

## **ii. State and Local Approvals.**

The applicant should demonstrate receipt (or the schedule for anticipated receipt) of State and local approvals on which the project depends, such as State and local environmental and planning approvals, and statewide transportation improvement program (STIP) or transportation improvement program (TIP) funding, if applicable to the proposed project. Additional support from relevant State and local officials is not required; however, an applicant should demonstrate that the project has broad public support.

## **iii. Assessment of Project Risks and Mitigation Strategies.**

Project risks, such as procurement delays, environmental uncertainties, increases in real estate acquisition costs, uncommitted local match, concerns expressed by stakeholders or impacted communities or residents or businesses who would be relocated for the project, or lack of legislative approval, affect the likelihood of successful project start and completion. The applicant should identify all material risks to the project and the strategies that the lead applicant and any project partners have undertaken or will undertake to mitigate those risks<sup>13</sup>. The applicant should assess the greatest risks to the project and identify how the project parties will mitigate those risks.

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<sup>13</sup> DOT considers an applicant's lack of experience with receipt and expenditure of Federal funds from DOT or its Operating Administrations a material risk.

To the extent it is unfamiliar with grant programs from DOT or its Operating Administrations, the applicant should contact the Division or Regional Offices of the Operating Administration supporting the type of transportation infrastructure with a nexus to the proposed grant. For example, the Federal Highway Administration Division Office in their State may be found at [Field Offices | Federal Highway Administration \(dot.gov\)](#) for information on what steps are prerequisite to the obligation of Federal funds to ensure that their project schedule is reasonable and that there are no risks of delays in satisfying Federal requirements.

### **3. Unique Entity Identifier (UEI) and System for Award (SAM)**

Effective April 4, 2022, the Data Universal Numbering System (DUNS) number is no longer required for entities doing business with the Federal government and has been replaced by the SAM UEI. As of that date, applicants are required to use a UEI issued during the SAM.gov registration process. Active registrants in SAM.gov have had their SAM UEI automatically assigned and it is currently viewable within SAM.gov. There is no additional action necessary for registered entities to take to obtain their SAM UEI.

Each applicant is required to:

- a. Be registered in SAM before submitting their application;
- b. Provide a valid UEI in their application; and
- c. Continue to maintain an active SAM registration with current information at all times during which the applicant has an active Federal award or an application or plan under consideration by a Federal awarding agency.

Please see <https://www.grants.gov/web/grants/applicants/applicant-faqs.html#UEI> for more information on the transition from DUNS to SAM UEI, including what UEI to enter into the UEI field on Grants.gov and on application package forms.

DOT may not make a Federal award to an applicant until the applicant has complied with all applicable UEI and SAM requirements. If an applicant has not fully complied with the requirements by the time the Federal awarding agency is ready to make a Federal award, the Federal awarding agency may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant.

Note To Applicants: SAM.gov requires the registrant to provide a UEI number to complete the registration. These processes can take several weeks to complete so should be started well before the application deadline.

### **4. Submission Dates and Times**

Applications must be submitted electronically through Grants.gov no later than 11:59 p.m., Eastern Time on February 6, 2023.

### **5. Intergovernmental Review**

An application under this NOFO is not subject to the State review under EO 12372.

## 6. Funding Restrictions

- a. Pre-Culvert AOP Program award costs (that is costs incurred before the award date) will not be reimbursed.
- b. Grant funds may not be used to support or oppose union organizing, whether directly or as an offset for other funds.

## 7. Other Submission Requirements

### a) Scalable Project Options

Applicants are encouraged to identify scaled funding options in case insufficient funding is available to fund a project or a bundled project to distribute costs. If an applicant advises that a project is scalable, the applicant must provide an appropriate minimum funding amount that will fund an eligible project that achieves the objectives of the program and meets all relevant program requirements. The applicant must provide a clear explanation of how the project budget would be affected by a reduced award. DOT may award a lesser amount whether or not a scalable option is provided.

### b) Submission Location

Applications must be submitted to [Grants.gov](https://www.Grants.gov).

### c) Consideration of Applications

Only applicants who comply with all submission deadlines described in this notice and electronically submit valid applications through Grants.gov will be eligible for award. Applicants are strongly encouraged to make submissions in advance of the deadline.

### d) Late Applications

Applicants experiencing technical issues with Grants.gov that are beyond the applicant's control must contact [CulvertAOP@dot.gov](mailto:CulvertAOP@dot.gov) prior to the application deadline with the username of the registrant and details of the technical issue experienced. The applicant must provide:

- (1) Details of the technical issue experienced;
- (2) Screen capture(s) of the technical issues experienced along with corresponding Grants.gov "Grant tracking number;"
- (3) The "Legal Business Name" for the applicant that was provided in the Standard Form 424;
- (4) The Point of Contact name submitted in the Standard Form 424;
- (5) The UEI associated with the application; and
- (6) The Grants.gov Help Desk Tracking Number.

To ensure a fair competition of limited discretionary funds, the following conditions are not valid reasons to permit late submissions: (1) failure to complete the registration process before the

deadline; (2) failure to follow Grants.gov instructions on how to register and apply as posted on its Website; (3) failure to follow all instructions in this notice of funding opportunity; and (4) technical issues experienced with the applicant's computer or information technology environment.

After DOT reviews all information submitted and contact the Grants.gov Help Desk to validate reported technical issues, DOT staff will contact late applicants to approve or deny a request to submit a late application through Grants.gov. DOT will not accept appeals of DOT decision to approve or deny a request for a late application. If the reported technical issues cannot be validated, late applications will be rejected as untimely.

**e) Compliance with Section 508 of the Rehabilitation Act of 1973**

DOT encourages applicants to submit documents that are compliant with Section 508 of the Rehabilitation Act of 1973. Section 508 guidelines are available at <https://www.access-board.gov/ict/>.

## SECTION E – APPLICATION REVIEW INFORMATION

DOT will award Culvert AOP Program funds based on statutorily required project selection priorities and the FY 2022 project selection criteria as described in this Section E. Section E.1.a describes the project selection criteria. DOT will score applications against the project selection criteria based on the data and information provided in the application. DOT will conduct a Project Readiness analysis as described in Section E.1.b for a subset of projects based on the project selection criteria. Section E.2 describes the review and selection process.

**Statutorily Required Project Selection Priorities.** Per 49 U.S.C. § 6703(e), in making grants under the Culvert AOP Program, DOT shall prioritize awarding grants under the Culvert AOP Program based on statutorily required priorities (Statutorily Required Project Selection Priorities). Section E.2.d below explains that the Second Level Review Team and Senior Level Review Team will consider and apply the Statutorily Required Project Selection Priorities. The Statutorily Required Project Selection Priorities include the following project types:

1. Projects that improve fish passage for one or more of the following:
  - (a) Anadromous fish stocks listed as an endangered species or a threatened species under section 4 of the Endangered Species Act of 1973 (16 U.S.C. §1533);
  - (b) Anadromous fish stocks identified by NMFS or USFWS that could reasonably become listed as an endangered species or a threatened species under that section;
  - (c) Anadromous fish stocks identified by NMFS or USFWS as prey for endangered species, threatened species, or protected species, including Southern resident orcas (*Orcinus orca*); or
  - (d) Anadromous fish stocks identified by NFMS or USFWS as climate resilient stocks; and
2. Projects that open up more than 200 meters of upstream habitat for anadromous fish before the end of the natural habitat.

### 1. Criteria

#### a) Project Selection Criteria.

DOT will evaluate projects using the seven (7) project selection criteria for FY 2022 Culvert AOP Program applications. The criteria incorporate the statutory eligibility requirements for this program, which are specified in this notice (Section C). DOT will also use the project selection criteria to assess how a project will advance DOT policy priorities including safety, increased resilience to climate change, equity, and advancing the state of practice in aquatic organism passage. In the case of a bundle of projects, benefits executing the projects as a bundle compared to as individual projects should be explained.

For each project selection criterion, DOT will consider whether the benefits are clear, direct, data-driven, and significant, which will result in a rating of “high,” “medium,” “low,” or “non-responsive.” Each project selection criteria lists the criterion-specific considerations that the



analysis team will use to assign “high”, “medium”, “low” and “non-responsive.” Section E.2 describes how the review and selection process uses these ratings.

**Criterion #1: Conservation Benefits to Anadromous Fish.** DOT will assess the proposed project’s benefits to anadromous fish. The application should include information on: (1) the anadromous species the project will benefit; (2) if the proposed project contributes to the recovery or sustainability of federally protected or at-risk anadromous species and habitats, anadromous species that represent an important resource for other federally protected species, or contributes to ecological resilience for species that are vulnerable to climate change or extreme weather events; (3) if the proposed project conforms with a written recovery, management, or State wildlife action plan; (4) the magnitude of the potential benefit of the proposed project to anadromous fish; and (5) the significance of the expected impact on the project’s target species, including length of spawning, rearing, and migratory habitats to be made accessible to anadromous fish, and the quality of accessible habitat.

The applicant should also provide available data (qualitative or quantitative) or evidence supporting the proposed project’s conservation benefits. In the case of a bundle of projects, the applicant should explain the conservation benefits of executing the projects as a bundle compared to as individual projects:

**High:** The application clearly demonstrates significant conservation benefits to anadromous fish species. Significant benefits derive from the number of species benefitting, the degree of endangerment of species benefitting, and the scope and magnitude (or extent) of the species and habitat benefits expected.

**Medium:** The application demonstrates moderate conservation benefits to anadromous fish species in terms of the number of species benefitting, the degree of endangerment of species benefitting, and the scope and magnitude (or extent) of the species and habitat benefits.

**Low:** The application demonstrates modest conservation benefits to anadromous fish species in terms of the number of species benefitting, the degree of endangerment of species benefitting, and the scope and magnitude (or extent) of the species and habitat benefits.

**Non-Responsive:** The application does not demonstrate conservation benefits to anadromous fish species.

**Criterion #2: Regional and Watershed Context.** This criterion evaluates the proposed project’s value to anadromous fish in the regional and watershed context. The application should include information on: (1) if the proposal contributes to a holistic watershed strategy; (2) if there is a regional or watershed plan or prioritization established by a Federal, State, local or Tribal fish and wildlife agency; and (3) if applicable, what the proposed project’s priority is within the watershed or plan. The applicant should also provide available data (qualitative or quantitative) or evidence supporting the proposed project’s value in a regional or watershed context or plan.

**High:** The application clearly demonstrates the project has significant value in a regional or watershed context or plan.

**Medium:** The application demonstrates the project has moderate value in a regional or watershed context or plan.

**Low:** The application demonstrates the project has modest value in a regional or watershed context or plan.

**Non-Responsive:** The application does not make a connection between the project and any broader regional or watershed context or plan or is inconsistent with regional or watershed strategies.

**Criterion #3: Ecosystem Benefits.** This criterion evaluates the proposed project's ecosystem-level benefits. The application should include information on: (1) the extent the proposed project would provide benefits to ecosystem processes and biodiversity (e.g., ecological connectivity); (2) how the project would benefit the physical, chemical, and biological processes that sustain river and floodplain ecosystems (examples of the processes to consider include erosion and sediment transport, storage and routing of water, plant growth and successional processes, movement of nutrients and thermal energy, and nutrient cycling in the aquatic food Web); and (3) how the project may benefit other native aquatic and terrestrial species, and how the project would enhance ecosystem resilience. The applicant should also provide available data (qualitative or quantitative) or evidence supporting the proposed project's ecosystem benefits.

**High:** The application clearly demonstrates significant ecosystem benefits.

**Medium:** The application demonstrates moderate ecosystem benefits.

**Low:** The application demonstrates modest ecosystem benefits.

**Non-Responsive:** The application indicates that the project will not benefit or may harm the broader ecosystem.

**Criterion #4: Project Design and Delivery Methods.** This criterion assesses whether the proposed project: (1) describes clear goals and objectives; (2) applies appropriate methodologies, including design standards applicable to fish passage; (3) is technically sound; and (4) ensures the safety of the traveling public<sup>14</sup> over any infrastructure constructed or affected by the proposed project, including showing that appropriate design standards will be used, any

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<sup>14</sup> As indicated in descriptions of ratings for this Criterion below, any application that fails to adequately ensure the safety of the traveling public over affected infrastructure will receive a rating of "non-responsive" regardless of how the other elements are addressed. Section E.2.c below, titled "Overall Application Rating," explains that a rating of "non-responsive" on this or any other of the project selection criteria will result in an overall application rating of "Not Recommended."

such infrastructure will perform satisfactorily over its anticipated service-life, and addressing any maintenance responsibility<sup>15</sup>.

In addressing these elements, as applicable, the application should include sufficient detail to allow DOT to assess the merit of the planned activities. The applicant should clearly describe the fish passage barrier (culvert or weir) and the condition of the habitat upstream and downstream of the barrier. The applicant should also clearly state which design standards it is using to improve fish passage and whether they are consistent with applicable fish passage guidance. The applicant should address whether site characteristics support the proposed approach to providing fish passage and whether the approach is feasible from both biological and engineering perspectives. The applicant should address whether the design supports hydrogeomorphic processes that would maintain or improve habitat both upstream and downstream of the culvert or weir. The applicant should also explain whether it proposes to retain appropriate personnel to implement the proposed project. As applicable, the applicant should address whether it is likely to obtain right-of-way approvals for the proposed projects and what obstacles may exist to obtaining such approvals. The applicant should also discuss whether the project is permissible by regulatory agencies. Finally, the applicant should also provide evidence that it has chosen, or has a plan to select, a design standard or specification, applicable to the affected mode(s) of transportation, such that any project infrastructure constructed or affected by the proposed project ensures the safety of the traveling public over the anticipated service life of such infrastructure. In addressing the safety of the traveling public over the anticipated service life of the infrastructure the applicant should also address maintenance responsibility over the life of the asset. For all elements of this criterion, the applicant should provide supporting available data (qualitative or quantitative) or evidence.

**High:** The application describes clear goals and objectives, applies appropriate methodologies, and is technically sound and safe.

**Medium:** The application describes goals and objectives well enough, has some technical or methodological weaknesses, but is technically adequate and safe, and its methods are acceptable.

**Low:** The application does not clearly describe its goals and objectives, or has methodological or technical weaknesses, but is acceptably safe.

**Non-Responsive:** The application fails to include clear goals and objectives, its methods are inappropriate, or does not apply accepted standards and specifications to ensure safe travel by public on the transportation infrastructure.

**Criterion #5: Project Monitoring and Evaluation.** This criterion evaluates the project's plan to evaluate effectiveness of the implemented project and should include clear goals and objectives to be monitored and evaluated. The application should include information on:

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<sup>15</sup> Maintenance responsibilities include both ensuring the safety of the traveling public and ensuring that the structure continues to function consistently with the intent of the Culvert AOP Program.

(1) whether the project considers any data collection and monitoring needs or requirements (as described in section B.6); (2) if these needs or requirements are proposed for pre- or post-project implementation (or both); (3) for the components of the proposal focused on fish passage feasibility and design, if the activities to develop a monitoring plan are described; and (4) if no pre- or post-project implementation monitoring will be developed or performed, the applicant must clearly explain the rationale for the lack of monitoring. The applicant should also provide available data (qualitative or quantitative) or evidence supporting the proposed monitoring and evaluation approach.

**High:** The proposed monitoring and evaluation are technically sound.

**Medium:** The proposed monitoring and evaluation plan has some technical or methodological weaknesses but is technically adequate, its methods are acceptable, and it generally describes goals and objectives. The data and information provided in the application is limited or does not directly demonstrate how the proposed project meets this criterion.

**Low:** The proposed monitoring and evaluation plan has significant methodological weaknesses, which preclude assessment of whether it is technically adequate, or its methods are acceptable, or the rationale for not providing post-project implementation monitoring is not technically sound. The data and information provided in the application does not demonstrate how the project meets this criterion.

**Non-responsive:** The application is technically flawed, the proposed methods are inappropriate or, if no monitoring is described the applicant does not provide an explanation or rationale, or it fails to include clear goals and objectives. The data and information provided in the application indicates that the project is inconsistent with this criterion, or no data or information is included in the application.

**Criterion #6: Climate Change, Sustainability, and Resilience.** This criterion considers the extent to which the proposed project incorporates considerations of climate change, extreme weather events, and resilience. The application should include information on: (1) if the project incorporates climate resilience measures or features, if appropriate, and (2) if the proposed methodology enhances resilience to extreme weather events and adaptation to potential climate change impacts anticipated at the project site. The applicant should also provide available data (qualitative or quantitative) or evidence supporting the extent to which the proposed project satisfies this criterion.

**High:** The application clearly describes the degree to which the project incorporates considerations of climate change, sustainability, and resilience.

**Medium:** The application generally describes how the project incorporates considerations of climate change, sustainability, and resilience.

**Low:** The application does not clearly describe how the project incorporates considerations of climate change, sustainability, and resilience.

**Non-Responsive:** The application is inconsistent with considerations of climate change, sustainability, and resilience.

**Criterion #7: Equity and Barriers to Opportunity.** This criterion considers the extent to which the project improves equity and addresses barriers to opportunities. This may include projects that demonstrate: (1) benefits to fish species that are culturally important to Tribes or underserved communities; (2) contributions to the physical sustenance of or economic benefits to Tribes or underserved communities; (3) a commitment to good-paying jobs with free and fair choice to join a union and strong labor standards in project construction and in on-going operations and maintenance through the use of, for example, project labor agreements, registered apprenticeship programs, and joint labor-management training programs; or (4) clear use of policies to promote the hiring of workers from economically disadvantaged communities, including local and economic hiring preferences and investments in high-quality workforce development programs with supportive services to help train, place, and retain people in good-paying jobs.

**High:** The application clearly describes how the project sponsor demonstrates a commitment and the project is used to improve equity and address barriers of opportunities for historically disadvantaged communities or populations, underserved communities, or areas of persistent poverty.

**Medium:** The application generally describes how the project sponsor demonstrates a commitment and the project is used to improve equity and address barriers of opportunities historically disadvantaged communities or populations, underserved communities, or areas of persistent poverty.

**Low:** The application does not clearly describe how the project demonstrates a commitment and the project is used to improve equity and address barriers of opportunities historically disadvantaged communities or populations, underserved communities, or areas of persistent poverty.

**Non-Responsive:** The project described in the application would create, increase, or perpetuate inequity or barriers to opportunity in historically disadvantaged communities or populations, underserved communities, or areas of persistent poverty.

## **b) Project Readiness**

To assess project readiness, DOT will evaluate three criteria: Environmental Review and Permitting Risk, Applicant Qualification Assessment, and Financial Completeness Assessment. The application should contain a section that explicitly addresses Environmental Review and Permitting Risk, but the Applicant Qualification Assessment and Financial Completeness Assessment will be based on information contained throughout the application. Section E.2 describes how the review and selection process uses these ratings.

**Environmental Review and Permitting Risk:** The environmental review and permitting risk assessment analyzes the project's environmental approvals and likelihood of the necessary approvals affecting project obligation, and results in a rating of "high risk," "moderate risk," or

“low risk.” The environmental review and permitting risk will be reviewed for all eligible applications and will assess whether the project can be delivered in compliance with applicable Federal, State, and local requirements including environmental laws. The application should include information on: (1) The extent the proposal completely describes the environmental review and permitting process for the proposed fish passage efforts, including a realistic timeline, key milestones to be achieved, and the status of permitting and environmental compliance. This should include information on whether the proposed project has begun or completed NEPA and other necessary environmental reviews, including securing necessary Federal, State, and local permits, or on how the proposed project will timely complete the environmental review and permitting processes. The application should also include information on: (2) The components of the project that could prevent the project from obtaining needed environmental approvals, or significantly extend the timeline for approvals. For example, are there any known concerns associated with the project which could affect timely delivery? The application should also include information on: (3) Whether the approach for the project allows for use of streamlined environmental approvals or programmatic consultations.

**Applicant Qualifications:** This criterion assesses whether the applicant and its project management team possess or have a plan to acquire the necessary education, experience, training, facilities, and administrative resources to support the proposed award. For this assessment, applications will be evaluated based on the following: (1) Infrastructure and Fish Passage Background. Does the project team (staff and/or partners) demonstrate the necessary education and experience in stakeholder collaboration, planning, design, engineering, construction, and/or monitoring efforts, in order to successfully carry out the scale and scope of the project? Does the proposal demonstrate that the project team has the capacity to complete the proposed project, even in the face of adverse conditions? (2) Management Capacity. Does the applicant describe the necessary experience or the ability to acquire assistance related to qualifications, facilities, equipment, and administrative resources available to successfully fulfill the responsibilities associated with managing a Federal grant award? Does the applicant demonstrate an ability to manage the requested amount of funds, maintain financial and administrative records, and fulfill reporting requirements?

**Financial Completeness:** The criterion reviews the availability of matching funds and whether the applicant presented a complete funding package, and will receive a rating of “complete,” “partially complete,” or “incomplete.” For projects that receive a rating of “complete” and include funding estimates that are based on early stages of design (e.g., less than 30 percent design) or outdated cost estimates, without specified contingency, evaluators may add a comment to note the potential for uncertainty in the estimated project costs. All applicants should describe a plan to address potential cost overruns and future maintenance and preservation costs and how those costs will be funded.

Rating	1	2	3
Environmental Review and Permitting Risk	High Risk: There are known environmental concerns associated with the project that would preclude implementation.	Moderate Risk: There are potential environmental review, or permitting concerns, but these can be likely addressed by the project without significant delays.	Low Risk: The Project has completed NEPA, or it is highly likely that they will be able to complete NEPA and other environmental reviews in the time necessary to meet their project schedule.
Applicant Qualification	Low: The application does not demonstrate the applicant's capacity or ability to acquire the capacity to deliver this project in a manner that satisfies Federal requirements.	Moderate: The project may need buttressing of staff or approaches to ensure timely delivery without undue DOT oversight.	High: The project has staffing and technical teams sufficiently qualified to ensure meeting project schedule and delivery in a timely and thorough manner.
Financial Completeness	Incomplete Funding: Project would potentially incur a high risk of fiscal viability and lack sound financial management approaches.	Partially Complete: Project appears Stable and Highly Likely to be Available.	Complete: Financial plan appears stable and committed, with sound fiscal management approaches.

The Project Readiness Ratings described above will be translated to a high, medium-high, medium, medium-low, or low rating, using the table below:

Project Readiness Rating	Description
High	All 3s
Medium-high	Two 3s, one 2

Project Readiness Rating	Description
Medium	One 3, two 2s
Medium-low	All 2s
Low	Any 1s

## 2. Review and Selection Process

The Culvert AOP Program grant applications will be evaluated in accordance with the review and selection process discussed below. Each application submitted by the deadline will undergo an eligibility screening to ensure it meets program requirements described in Section C. For each application, an initial review will assess whether the applicant is eligible and submitted all the information requested for a complete application. Only eligible projects will be evaluated against the project selection criteria in Section E.1.a.

The Culvert AOP Program review and selection process consists of an Analysis Phase, Second-Level Review, Senior-Level Review, and Selection of projects to award grants by the Secretary of Transportation. In the Analysis Phase, interagency analysis teams (DOT, USFWS, and NMFS) will review all eligible applications received by the deadline for a Project Criteria Review and, as appropriate, Project Readiness.

### a) Project Selection Criteria Ratings

For each project selection criterion, the review teams will consider whether the application narrative is responsive to the selection criterion and assign ratings of high, medium, low, or non-responsive to each criterion as described in Section E.1.a. Eligible applications will be reviewed by the Analysis Team using the criteria described in E.1.a. Projects that receive at least one high rating and no low ratings for criteria 1-3, and no non-responsive ratings for any criteria, will advance to the project readiness review described under E.1.b.

### b) Project Readiness Rating

For projects that advance as described under E.2.a., DOT will consider project readiness to assess the likelihood of a successful project. In that Project Readiness Review, DOT will consider the project readiness criteria described under E.1.b.

### c) Overall Application Rating

Following the Project Readiness Review, DOT will assign each eligible project a rating of Highly Recommended, Recommended, or Not Recommended. A rating of “Not Eligible” will be assigned to a project that does not meet one or more of eligibility requirements as defined in Section C.



DOT will assign the rating on the following basis:

### **Highly Recommended**

A rating of “Highly Recommended” will be assigned to a project that meets all of the eligibility requirements; and

Received at least two High ratings and no ratings below Medium for criterion 1-3, and at least three out of the four remaining project selection criteria received a High rating; and

Received not less than a Medium project readiness.

### **Recommended**

A rating of “Recommended” will be assigned to a project that meets all of the eligibility requirements; and

Received at least one High rating and no ratings below Medium for criterion 1-3, and at least two out of the four remaining criteria received a Medium or better rating; and

Received not less than a Medium project readiness.

### **Not Recommended**

A rating of “Not Recommended” will be assigned to a project that meets all of the eligibility requirements; and

Received two or more low ratings for criterion 1-3 and received a Non-Responsive on any of the criteria.

Is not otherwise assigned a “Highly Recommended” or “Recommended” rating.

#### **d) Selection Process**

The analysis team will send each reviewed application to a Second Level Review Team.

The Second Level Review Team will be comprised of DOT and interagency staff. This team will review the Project Selection Criteria and Project Readiness Ratings, as well as the Statutorily Required Project Selection Priorities to determine which projects with a rating of “Highly Recommended” will proceed to a Senior Level Review Team. The Second Level Review Team may also advance for consideration “Recommended” projects that meet one or more of the Statutorily Required Project Selection Priorities. When advancing a “Recommended” project over a “Highly Recommended” project, the Second Level Review Team will select “Recommended” projects by considering how well the project addressed the project selection criteria and number of criteria rated High as well as the project’s ratings under project readiness.

To support the program goal of achieving high ecological value, the Second Level Review Team may prioritize for advancement applications that meet regional and National conservation objectives and involve interagency efforts to achieve greater ecological returns within a watershed or region.

The composition of the Senior Level Review Team is senior leadership from across DOT. The Senior Level Review Team will present the Secretary of Transportation with a list of Highly Recommended Applications for the Secretary's Consideration. In addition, the Senior Level Review Team may advise the Secretary on options for reduced awards, or awards under a different funding category than identified in the application.

The Secretary makes final project selections from the list of Highly Recommended Applications. The Secretary's selections identify the applications that best address the Culvert AOP Program goals, Statutorily Required Project Selection Priorities, geographic diversity, as well as regional and national conservation considerations, and ensure the effective use of Federal funding while also improving transportation safety, increased resilience to climate change, advancing the state of practice in aquatic organism passage, and other DOT priorities.

### **3. Additional Information**

- a. DOT may, during the selection process, enter into discussions with an applicant that may include mutually agreeing upon a lesser amount of a potential award than originally requested in the application if necessary due to the quantity, size and scope of the applications received in response to this notice and the results of the application review process. Discussions may include scalable project options as described under Section D.7.a. of this notice.
- b. Prior to award, each selected applicant will be subject to a risk assessment as required by 2 CFR § 200.206. DOT must review and consider any information about the applicant that is in the Federal Awardee Performance and Integrity Information System (FAPIIS), the designated integrity and performance system accessible through SAM. An applicant may review information in FAPIIS and comment on any information about itself previously entered by a Federal awarding agency. DOT will consider comments by the applicant, in addition to the other information in FAPIIS, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants.

## SECTION F – FEDERAL AWARD ADMINISTRATION INFORMATION

### 1. Federal Award Notice

Following the evaluation outlined in Section E, the Secretary will announce awarded projects by posting a list of selected projects at [Culvert AOP Program Website \(FHWA\)](#). Notice of selection is not authorization to begin performance or to incur costs for the proposed project. Following that announcement, DOT will contact the point of contact listed in the Standard Form 424 to initiate negotiation of the project agreement for authorization. Recipients of Culvert AOP Program awards will not receive lump-sum cash disbursements at the time of award announcement or obligation of funds. Instead, DOT will reimburse Culvert AOP Program grant funds to recipients only after a project agreement has been executed, allowable expenses are incurred, and valid requests for reimbursement are submitted.

Unless authorized by DOT in writing after DOT's announcement of FY 2022 Culvert AOP Program awards, any costs that a recipient incurs before DOT executes a project agreement for that recipient's project are ineligible for reimbursement and are ineligible match for cost share requirements.

### 2. Administrative and National Policy Requirements

All awards will be administered pursuant to the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards found in 2 CFR Part 200, as adopted by DOT at 2 CFR Part 1201. In addition, as permitted under the requirements described above, applicable Federal laws, rules, and regulations of the relevant Operating Administration (e.g., FHWA, *etc.*) administering the activities will apply to the activities that receive Culvert AOP Program grants, including planning requirements, Stakeholder Agreements, and other requirements under the Department's highway, transit, and other grant programs. DOT anticipates grant recipients to have varying levels of experience administering Federal funding agreements and complying with Federal requirements, and DOT will take a risk-based approach to Culvert AOP Program grant agreement administration to ensure compliance with all applicable laws and regulations.

In connection with any program or activity conducted with or benefiting from funds awarded under this notice, recipients of funds must comply with all applicable requirements of Federal law, including, without limitation, the Constitution of the United States; the conditions of performance, non-discrimination requirements, and other assurances made applicable to the award of funds in accordance with regulations of DOT; and applicable Federal financial assistance and contracting principles promulgated by the Office of Management and Budget (OMB). In complying with these requirements, recipients, in particular, must ensure that no concession agreements are denied, or other contracting decisions made on the basis of speech or other activities protected by the First Amendment. If DOT determines that a recipient has failed to comply with applicable Federal requirements, DOT may terminate the award of funds and disallow previously incurred costs, requiring the recipient to reimburse any expended award funds.

In particular, EO 14005 directs the Executive Branch Departments and agencies to maximize the use of goods, products, and materials produced in, and services offered in, the United States through the terms and conditions of Federal financial assistance awards. If selected for an award, grant recipients must be prepared to demonstrate how they will maximize the use of domestic goods, products, and materials in constructing their project. Any grant projects involving vehicle acquisition must involve only vehicles that comply with applicable Federal Motor Vehicle Safety Standards and Federal Motor Carriers Safety Regulations, or vehicles that are exempt from Federal Motor Vehicle Safety Standards or Federal Motor Carrier Safety Regulations in a manner that allows for the legal acquisition and deployment of the vehicle or vehicles.

### **3. Program Requirements**

#### **a) Labor and Work**

Each applicant selected for the Culvert AOP Program funding must demonstrate an effort to create good-paying jobs with the choice to join a union and compliance with high labor standards as described in Section A. To the extent that applicants have not sufficiently considered job quality and labor rights in their planning, as determined by the U.S. Department of Labor, the applicants will be required to do so before receiving funds, consistent with EO 14025, *Worker Organizing and Empowerment* ([86 FR 22829](#)), and EO 14052, *Implementation of the Infrastructure Investment and Jobs Act* ([86 FR 64335](#)).

As expressed in Section A, equal employment opportunity is an important priority. DOT wants to ensure that project sponsors have the support they need to meet requirements under EO 11246, *Equal Employment Opportunity* (30 FR 12319, and as amended). All federally assisted contractors are required to make good faith efforts to meet the goals of 6.9 percent of construction project hours being performed by women and goals that vary based on the geographic area in which the project is located for construction work hours and for work being performed by people of color.<sup>16</sup> The U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) has a Mega Construction Project Program through which it engages with project sponsors as early as the design phase to help promote compliance with non-discrimination and affirmative action obligations. Through the program, OFCCP offers contractors and subcontractors extensive compliance assistance, conducts compliance evaluations, and helps to build partnerships between the project sponsor, prime contractor, subcontractors, and relevant stakeholders. OFCCP will identify projects that receive an award under this notice and are required to participate in OFCCP's Mega Construction Project Program from a wide range of federally assisted projects over which OFCCP has jurisdiction and that have a project cost above \$35 million. DOT will require project sponsors with costs above \$35 million that receive awards under this funding opportunity to partner with OFCCP, if selected by OFCCP, as a condition of their DOT award. Under that partnership, OFCCP will ask these project sponsors to make clear to prime contractors in the pre-bid phase that project sponsor's

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<sup>16</sup> <https://www.dol.gov/sites/dolgov/files/ofccp/ParticipationGoals.pdf>

award terms will require their participation in the Mega Construction Project Program. Additional information on how OFCCP makes their selections for participation in the Mega Construction Project Program is outlined under “Scheduling” on the Department of Labor website: <https://www.dol.gov/agencies/ofccp/faqs/construction-compliance>.

#### **b) Critical Infrastructure Security and Resilience**

It is the policy of the United States to strengthen the security and resilience of its critical infrastructure against both physical and cyber threats. Each applicant selected for the Culvert AOP Program funding must demonstrate, prior to the signing of the grant agreement, effort to consider and address physical and cyber security risks relevant to the transportation mode and type and scale of the project. Projects that have not appropriately considered and addressed physical and cyber security and resilience in their planning, design, and project oversight, as determined by DOT and the U.S. Department of Homeland Security, will be required to do so before receiving funds for construction, consistent with *Presidential Policy Directive 21 - Critical Infrastructure Security and Resilience and the National Security Presidential Memorandum on Improving Cybersecurity for Critical Infrastructure Control Systems*, found at <https://www.cisa.gov/control-systems-goals-and-objectives>.

#### **c) Domestic Preference Requirements**

As expressed in EO 14005, *Ensuring the Future Is Made in All of America by All of America's Workers* (86 FR 7475), it is the policy of the executive branch to maximize, consistent with law, the use of goods, products, and materials produced in, and services offered in, the United States. The Culvert AOP Program is an infrastructure program subject to the Build America, Buy America Act (Pub. L. No 117-58, div. G §§ 70901–70927). DOT expects all recipients to be able to complete their project without needing a waiver. However, to obtain a waiver, a recipient must be prepared to demonstrate how they will maximize the use of domestic goods, products, and materials in constructing their project. The applicability of Federal requirements to a project may be affected by the scope of the NEPA reviews for that project.

#### **d) Civil Rights and Title VI**

Recipients of Federal transportation funding will be required to comply fully with the Americans with Disabilities Act, Title VI of the Civil Rights Act of 1964, and all other civil rights requirements. The DOT's and the applicable Operating Administrations' Office of Civil Rights may work with awarded projects to ensure full compliance with Federal civil rights requirements.

#### **e) National Environmental Policy Act of 1969 (NEPA)**

Funding recipients must comply with NEPA under [42 U.S.C. § 4321 et seq.](#) and the Council on Environmental Quality's NEPA implementing regulations at [40 CFR § 1500-1508](#), where applicable. Regulations of the relevant Operating Administration administering the grant for the project will generally apply to the activities that receive Culvert AOP Program grants. For example, for projects funded through Culvert AOP Program and administered by FHWA, FHWA will apply FHWA's NEPA policies and provisions under 23 CFR part 771.

#### **4. Reporting**

##### **a) Progress Reporting on Grant Activities**

Each applicant selected for Culvert AOP Program grant funding must submit quarterly progress reports and Federal Financial Reports (Standard Form 425) to monitor project progress and ensure accountability and financial transparency in the Culvert AOP Program.

##### **b) Reporting of Matters Related to Recipient Integrity and Performance**

If the total value of a selected applicant's currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then the applicant during that period of time must maintain the currency of information reported in SAM that is made available in the designated integrity and performance system (currently the FAPIIS) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Pub. L. No.110-417, as amended (41 U.S.C. § 2313). As required by section 3010 of Pub. L. No. 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

##### **c) Program Evaluation**

As a condition of grant award, Culvert AOP grant recipients may be required to participate in an evaluation undertaken by DOT, or another agency or partner. The evaluation may take different forms such as an implementation assessment across grant recipients, an impact and/or outcomes analysis of all or selected sites within or across grant recipients, or a benefit/cost analysis or assessment of return on investment. The Department may require applicants to collect data elements to aid the evaluation. As a part of the evaluation, as a condition of award, grant recipients must agree to: (1) make records available to the evaluation contractor; (2) provide access to program records, and any other relevant documents to calculate costs and benefits; (3) in the case of an impact analysis, facilitate the access to relevant information as requested; and (4) follow evaluation procedures as specified by the evaluation contractor or DOT staff.

Recipients and sub-recipients are also encouraged to incorporate program evaluation including associated data collection activities from the outset of their program design and implementation to meaningfully document and measure the effectiveness of their projects and strategies. Title I of the Foundations for Evidence-Based Policymaking Act of 2018 (Evidence Act), Pub. L. No. 115-435 (2019) urges Federal awarding agencies and Federal assistance recipients and sub-recipients to use program evaluation as a critical tool to learn, to improve equitable delivery, and to elevate program service and delivery across the program lifecycle. Evaluation means "an assessment using systematic data collection and analysis of one or more programs, policies, and organizations intended to assess their effectiveness and efficiency" (codified at 5 U.S.C. § 311). For grant recipients, evaluation expenses are allowable costs (either as direct or indirect), unless prohibited by statute or regulation, and such expenses may include the personnel and equipment needed for data infrastructure and expertise in data analysis, performance, and evaluation (2 CFR § 200).

**d) Other**

DOT reserves the right to request additional information, if deemed needed, to better understand the status of the project. The successful applicant will provide additional financial reporting beyond the semi-annual reporting, if such statements are necessary to address DOT's Stewardship and Oversight responsibility of the funds. The successful applicant also agrees to allow periodic project inspections and DOT will provide notice for such inspections.

## SECTION G - FEDERAL AWARDING AGENCY CONTACTS

For questions concerning this NOFO and the Culvert AOP Program, please contact:

Rick Murray

Agreement Officer  
Office of Acquisition and Grants Management  
Federal Highway Administration  
U.S. Department of Transportation  
1200 New Jersey Ave., SE., Mailstop E62-204  
Washington, DC 20590-0001  
Email: [CulvertAOP@dot.gov](mailto:CulvertAOP@dot.gov) (preferred)  
Phone: (202) 366-4250

Alternate:

Robin Hobbs  
Agreement Officer/Team Leader  
Office of Acquisition and Grants Management  
Federal Highway Administration  
U.S. Department of Transportation  
1200 New Jersey Ave., SE., Mailstop E62-204  
Washington, DC 20590-0001  
Email: [CulvertAOP@dot.gov](mailto:CulvertAOP@dot.gov) (preferred)  
Phone: (202) 366-4004

A TDD is available for individuals who are deaf or hard of hearing at 202-366-3993.

Office hours are from 7:30 a.m. to 4:00 p.m., Eastern Time, Monday through Friday, except Federal holidays.

In addition, DOT will post answers to questions and requests for clarifications on DOT's Website at [Culvert AOP Program Website \(FHWA\)](#). To ensure applicants receive accurate information about eligibility or the program, the applicant is encouraged to contact DOT directly, rather than through intermediaries or third parties, with questions.



## **SECTION H – OTHER INFORMATION**

### **1. Protection of Confidential Business Information.**

All information submitted as part of or in support of any application shall use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If the applicant submits information that the applicant considers to be a trade secret or confidential commercial or financial information, the applicant must provide that information in a separate document, which the applicant may cross-reference from the application narrative or other portions of the application. For the separate document containing confidential information, the applicant must do the following: (1) state on the cover of that document that it “Contains Confidential Business Information (CBI)”; (2) mark each page that contains confidential information with “CBI”; (3) highlight or otherwise denote the confidential content on each page; and (4) at the end of the document, explain how disclosure of the confidential information would cause substantial competitive harm. DOT will protect confidential information complying with these requirements to the extent required under applicable law. If DOT receives a Freedom of Information Act (FOIA) request for the information that the applicant has marked in accordance with this section, DOT will follow the procedures described in its FOIA regulations at 49 CFR 7.29. Only information that is in the separate document, marked in accordance with this section, and ultimately determined to be confidential under 49 CFR § 7.29 will be exempt from disclosure under FOIA.

### **2. Publication/Sharing of Application Information.**

Following the completion of the selection process and announcement of awards, DOT intends to publish a list of all applications received along with the names of the applicant organizations and funding amounts requested. Except for information properly marked as described in Section H.1., DOT may make application narratives publicly available or share application information within DOT or with other Federal agencies if DOT determines that sharing is relevant to the respective program’s objectives.

### **3. DOT Feedback on Applications**

Debriefs by DOT are available to applicants not selected for award to receive information about the evaluation of their application.

#### 4. Definitions

Term	Definition
Anadromous	Anadromous is the term that describes fish born in freshwater who spend most of their lives in saltwater and return to freshwater to spawn, such as salmon and some species of sturgeon. [Source: NMFS <a href="https://www.fisheries.noaa.gov/node/8071">https://www.fisheries.noaa.gov/node/8071</a> ]
Anadromous Fish Stocks	(See anadromous). Target fish species under this funding opportunity are those native species that spend a portion of their lives in the ocean or estuaries, and migrate to their freshwater spawning habitats to reproduce. Species of anadromous fish include salmon, steelhead trout, shad, river herring, lamprey, and sturgeon, among others. These species may also be referred to as sea-run.
Areas of Persistent Poverty	In this context, Areas of Persistent Poverty means: (1) any county that has consistently had greater than or equal to 20 percent of the population living in poverty during the 30-year period preceding November 15, 2021, as measured by the 1990 and 2000 decennial census and the most recent annual Small Area Income Poverty Estimates as estimated by the Bureau of the Census; (2) any census tract with a poverty rate of at least 20 percent as measured by the 2014-2018 5-year data series available from the American Community Survey of the Bureau of the Census; or (3) any territory or possession of the United States. A county satisfies this definition only if 20 percent of its population was living in poverty in all three of the listed datasets: (a) the 1990 decennial census; (b) the 2000 decennial census; and (c) the 2020 Small Area Income Poverty Estimates. This definition is the same as the definition used for DOT’s Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Grant Program. DOT lists all counties and census tracts that meet this definition for Areas of Persistent Poverty at <a href="https://datahub.transportation.gov/stories/s/tsyd-k6ij">https://datahub.transportation.gov/stories/s/tsyd-k6ij</a> .
Bridge [for projects with a nexus to a highway]	A structure including supports erected over a depression or an obstruction, such as water, highway, or railway, and having a track or passageway for carrying traffic or other moving loads, and having an opening measured along the center of the roadway of more than 20 feet between under copings of abutments or spring lines of arches, or extreme ends of openings for multiple boxes; it may also include multiple pipes, where the clear distance between openings is less than half of the smaller contiguous opening. [Source 23 CFR 650 subpart C, at 23 CFR 650.305.]

Term	Definition
	<p>Structures under this definition are subject to the National Bridge Inspection Standards (NBIS) [See 23 CFR 650.303].</p> <p>A bridge may have a span less than 20 feet, but those structures are not subject to the NBIS. However, bridges with a span less than 20 feet are subject to applicable design standards to ensure the safety of the traveling public [See 23 CFR Part 625].</p>
Climate Resilient Stocks	<p>Fish stocks that are capable of resisting, recovering, and adapting to climate change such as increases in stream temperature or changes in flow. This funding opportunity will consider fish barrier removal projects that improve the climate resilience (reduce climate vulnerability) of anadromous fish stocks and their ecosystems.</p>
Culvert [for projects with a nexus to a highway]	<p>A structure comprised of one or more barrels, beneath a (transportation) embankment and designed structurally to account for soil-structure interaction. These structures are hydraulically and structurally designed to convey water, sediment, debris, and, in many cases, aquatic and terrestrial organisms through roadway embankments. Culvert barrels have many sizes and shapes and have inverts that are either integral or open, i.e., supported by spread or pile-supported footings.</p> <p>A culvert structure that less than 20 feet in centerline span width between extreme ends of openings for multiple boxes is called a roadway culvert. If this width is more than 20 feet, the structure is called a bridge culvert (see Bridge). [Source: AASHTO Drainage Manual, 1st edition, Volume 1 (Policy), Chapter 11 “Culverts,” Section 11.1 (Introduction), page 11-1, 2014].</p>
Design Study [for projects with a nexus to a highway]	<p>Detail of studies shall be commensurate with the risk associated with the encroachment and with other economic, engineering, social or environmental concerns. See 23 CFR 650.117. Studies should also contain hydrologic and hydraulic data and design computations and project plans including the magnitude, approximate probability of exceedance and, at appropriate locations, the water surface elevations associated with the base flood and overtopping flood or the flood of record.</p>
Director	<p>Means the Director of the USFWS [49 U.S.C. § 6703(a)].</p>

Term	Definition
Economically Disadvantaged Community	<p>For the purposes of the NOFO, applicants may demonstrate the “economic disadvantage” of the project area according to one (1) of the following tools:</p> <ol style="list-style-type: none"> <li>1. EPA Environmental Justice Screening and Mapping tool, Socio-economic indicator for low income, block groups in the 80th percentile or above, compared to the State.</li> <li>2. Areas of Persistent Poverty table for the County or Census tract level.</li> <li>3. DOT’s mapping tool for Historically Disadvantaged Communities, See Transportation Disadvantaged Census Tracts in ArcGIS Dashboards.</li> <li>4. Other federally designated community development zones (for example: Opportunity Zones, Empowerment Zones, Promise Zones, or Choice Neighborhoods).</li> </ol>
Ecosystem Resilience	<p>This term refers to the capacity of an ecosystem to absorb, withstand, respond to, or recover rapidly from disturbances linked to extreme weather events and climate hazards. Resilient ecosystems can resist damage from extreme weather events or climate hazards, while retaining or having the ability to recover their inherent structure and ecological function.</p>
Eligible Applicant	<p>For the purpose of the program, an Eligible Applicant includes a:</p> <ol style="list-style-type: none"> <li>1. State,</li> <li>2. a unit of local government, or</li> <li>3. Indian Tribe [49 U.S.C. § 6703(c)].</li> </ol>
Endangered Species	<p>For the purpose of the program and as defined on section 3(6) of the Endangered Species Act, 16 U.S.C. § 1532(6), the term “endangered species” means any species which is in danger of extinction throughout all or a significant portion of its range other than a species of the Class Insecta determined by the Secretary to constitute a pest whose protection under the provisions of this chapter would present an overwhelming and overriding risk to man.</p> <p>For the purpose of the program, endangered species are those listed as endangered species under section 4 of the Endangered Species Act, 16 U.S.C. § 1533. See <a href="#">50 CFR § 17.11</a>.</p>

Term	Definition
Environmental Justice	Environmental justice, as defined by DOT, is the fair treatment and meaningful involvement of all people, regardless of race, ethnicity, income, national origin, or educational level with respect to the development, implementation and enforcement of environmental laws, regulations and policies. See <a href="https://www.transportation.gov/transportation-policy/environmental-justice">https://www.transportation.gov/transportation-policy/environmental-justice</a> .
Equity	The term equity means the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality. See <a href="https://www.transportation.gov/sites/dot.gov/files/2022-04/Equity_Action_Plan.pdf">https://www.transportation.gov/sites/dot.gov/files/2022-04/Equity_Action_Plan.pdf</a> .
Fish Passage	Fish passage is the ability of fish to move freely between habitats they rely on for food, growth, reproduction, and other needs. Fish passage projects improve the movement of fish within and between their spawning, rearing, and adult habitats by modifying or removing dams, culverts, and other barriers that restrict their migration. For this opportunity, fish passage means anadromous fish can move through the barrier site under their own power, at multiple life stages, without delay (also known as “volitional passage”). Fish passage projects include dam removal and/or modification; culvert removal and/or replacement; nature-like fishways or bypass channels; and technical fish ladders.
Historically Disadvantaged Communities	DOT has developed a definition of Historically Disadvantaged Communities as part of its implementation of the Justice40 Initiative and will use that definition for the purpose of this NOFO. Consistent with OMB’s Interim Guidance for the Justice40 Initiative, Historically Disadvantaged Communities include (a) certain qualifying census tracts, (b) any Tribal land, or (c) any territory or possession of the United States. This definition is the same as the definition used for the RAISE Program. DOT is providing a list of census tracts that meet the definition of Historically Disadvantaged Communities, as well as a mapping tool to assist applicants in identifying whether a project is located in a Historically Disadvantaged Community, available at <a href="https://datahub.transportation.gov/stories/s/tsyd-k6ij">https://datahub.transportation.gov/stories/s/tsyd-k6ij</a> .

Term	Definition
Indian Tribe	For the purpose of this program and as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 5304), Indian Tribe means any Indian Tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) [43 U.S.C. § 1601 et seq.], which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians [49 U.S.C. § 6703(a)].
Invasive Species	Invasive species' means, with regard to a particular ecosystem, a non-native organism whose introduction causes or is likely to cause economic or environmental harm, or harm to human, animal, or plant health.
In Stream Barrier	<p>A barrier to aquatic connectivity is an obstruction that prevents or alters the natural flow of water within or between waterbodies, potentially impacting water quality, sediment movement, type of habitat, and fish passage. A barrier to fish passage is anything that prevents or reduces the ability of fish or other aquatic species to move where needed to survive and complete their life cycle within an aquatic system. The extent to which a barrier may reduce or prohibit the movement of fish or other aquatic species may vary by species and life stage. Barriers may be the result of structural impediments, such as a dam, levee, undersized culvert, or other manmade structures, or of environmental conditions, such as, waterfalls, bedrock, sediment, water quality, temperature, or flow.</p> <ol style="list-style-type: none"> <li>1. <i>A partial barrier</i> to fish passage reduces movement of some individuals of one or more fish or other aquatic species some or all of the time.</li> <li>2. <i>A complete barrier</i> to fish passage prohibits movement of all individuals of one or more fish or other aquatic species all of the time.</li> </ol>
Likely to become listed	Species that are proposed for listing under section 4 of the Endangered Species Act or Candidate for listing under section 4 of the Endangered Species Act.
Protected Species	Means protected species under Federal statute or regulation.
Secretary	Means the Secretary of Transportation.
State	This NOFO uses the definition of "State" at <a href="#">2 CFR 200.1</a> .

Term	Definition
Threatened Species	<p>For the purpose of the program and as defined on section 3(20) of the Endangered Species Act, 16 U.S.C. § 1532(20), the term threatened species means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.</p> <p>For the purpose of the program, threatened species are those listed as threaten species under section 4 of the Endangered Species Act, 16 U.S.C. § 1533. See <a href="#">50 CFR § 17.11</a>.</p>
Undersecretary	Means the Undersecretary of Commerce for Oceans and Atmosphere [49 U.S.C. § 6703(a)].
Underserved Communities	<p>Refers to populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life, as exemplified by the list in the preceding definition of “equity” [See DOT Equity Action Plan, January 2022, available at: <a href="https://www.transportation.gov/sites/dot.gov/files/2022-04/Equity_Action_Plan.pdf">https://www.transportation.gov/sites/dot.gov/files/2022-04/Equity_Action_Plan.pdf</a>].</p>
Unit of Local Government	This NOFO uses the definition of “unit of local government” at <a href="#">2 CFR 200.1</a> .
Weir	A weir is a constructed barrier on a stream channel designed to provide hydraulic control without completely stopping flow or creating a large storage impoundment.

## 5. Useful Links

- [Culvert AOP Program Website \(FHWA\)](#)
- [FHWA's Tribal Transportation Program](#)

## 6. Other funding opportunities

The Culvert AOP Program is a new grant program created under the BIL. For additional culvert or fish passage Federal assistance you may refer to other programs including, but not limited to the following:

- [FHWA Bipartisan Infrastructure Law Funding](#);
- [FHWA's Bridge Investment Program](#);
- [FHWA's PROTECT Program](#);
- [NOAA's Office of Habitat Conservation's Restoration Center fish passage initiatives](#);
- [USFWS' National Fish Passage Program](#).