

U.S. Department of Transportation

SUPPORTING STATEMENT

Culvert AOP Program Grant Application and Grant Application Template OMB Control No. XXXX

Introduction: This is to request the Office of Management and Budget (OMB) approve a 180-day emergency clearance for the information collection entitled, National Culvert Removal, Replacement, and Restoration Grant Program (Culvert AOP Program). Note that:

- Responding to the collection is voluntary and is required to obtain or retain a benefit.
- Responders are States, a unit of local government, or an Indian Tribe as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).
- The information collection is a grant application, application template, grant agreement, and reporting during project management.
- The information is collected as needed.
- Information relevant to the application is detailed in the Culvert AOP Program Notice of Funding Opportunity (NOFO), and any reporting requirements agreed to by Grants recipients.
- The information will be received by the Office of the Secretary (OST).
- The purpose of the collection is to receive information relevant to evaluating applications to the Culvert AOP Program grant, per the NOFO, and providing information for reporting requirements agreed to by recipients of the grants.

This information collection request (ICR) supports the FY 2022 – 2026 DOT Strategic Plan, including the six strategic goals of:

1. Safety
2. Economic Strength & Global Competitiveness
3. Equity
4. Climate & Sustainability
5. Transformation
6. Organizational Excellence

Part A. Justification.

1. Circumstances that make collection of information necessary:

The collection of information is necessary in order to receive applications for grant funds, evaluate the effectiveness of projects that have been awarded grant funds, and monitor

project financial conditions and project progress pursuant to the Department of Transportation's (DOT) Culvert AOP Program. The program is being implemented pursuant to 49 U.S.C. 6703 and section 21203 and Division J of the Infrastructure Investment and Jobs Act (P.L. 117-58 also referred to as the Bipartisan Infrastructure Law or BIL). The purpose of this program is to replace, remove, repair, or improve culverts and weirs that would meaningfully improve or restore fish passage for anadromous fish. The Culvert AOP Program responds, in part, to *Washington v. United States*, 584 U.S. ___ (2018), where the United States Supreme Court affirmed a U.S. Ninth Circuit Court of Appeals decision, 853 F.3d 946 (2016), ruling that the State of Washington must correct culverts to allow anadromous salmon to swim upstream to uphold Native American treaty rights to fish.

DOT initially requests information from applicants in the form of an application. The application will assist in soliciting proposals for funding from eligible applicants for the grant program, to monitor recipients of grant funding, project progress, and to assess project outcomes and permit evaluation of the projects.

The relevant statutory provisions are 49 U.S.C. 6703 and Division J of the Bipartisan Infrastructure, attached hereto as Exhibit A. The U.S. Court decisions mentioned above are attached as Exhibit B.

Information for the reporting requirements is submitted by recipients and will be completed during the application stage, grant agreement stage, and the project management.

Application Stage

To be considered to receive a Culvert AOP Program grant, an eligible applicant must submit an application to DOT containing a project narrative, as detailed in the NOFO. The project narrative should include the information necessary for the Department to determine that the project satisfies eligibility requirements as warranted by law. In addition, an eligible applicant must submit the Culvert AOP Program Grant Application Template.

Grant Agreement Stage

The Culvert AOP Program grant recipient is expected to provide, and DOT will collect information during the grant agreement stage. The grant agreement is an agreement between a DOT Operating Administration and the recipient describing the project that DOT agreed to fund, which is typically the project that was described in the Culvert AOP Program grant application, or a reduced-scope version of that project. In the grant agreement stage, the recipient must provide DOT additionally requested information for negotiating the grant agreement or letter of no prejudice.

Project Management Stage

The reporting requirements under this stage are necessary to ensure the proper and timely

expenditure of Federal funds within the scope of the approved project. The requirements comply with OMB's Uniform Guidance for Federal Awards (2 CFR part 200) and are also included in sections of the grant agreement. During the project management stage, the grantee will complete Quarterly Progress and Monitoring Reports to ensure that the project budget and schedule will be maintained to the maximum extent possible, that the project will be completed with the highest degree of quality, and that compliance with applicable Federal laws and regulations will be met. The substantive requirements of the report include: the project's overall status; significant project activities and issues; action items/outstanding issues; project scope overview; project schedule; project cost; an SF-425 Federal Financial Report; and certifications. This reporting requirement will greatly reduce the need for on-site visits by staff.

2. How, by whom, and for what purpose is the information used:

The information collected will be used by DOT.

DOT will continue to use the information collected in the application phase to evaluate proposals.

DOT will use the information collected in the grant application stage, the grant agreement stage, and the project management stage to monitor the progress of projects that have been awarded Culvert AOP Program funds, and to monitor the proper expenditure of Federal funds.

The project management information will be collected by grant recipients. Much of the information will be produced and collected through the normal process of project management, so the additional burden of Government information collection is small in comparison to the information that grant recipients already collect to manage their projects properly. The purpose of the project management information collection is to ensure that the project budget and schedule will be maintained to the maximum extent possible, that the project will be completed with the highest degree of quality, and that compliance with Federal regulations will be met.

3. Extent of automated information collection:

During the application stage, the Department will receive applications electronically via Grants.gov upon approval from OMB. The Department will also receive reports and additional requested information electronically during the grant agreement and project management stages. To minimize the burden on applicants, OMB-approved standard forms are being used to collect information where possible. Such standard forms include the Application for Federal Assistance (SF-424), available online at https://apply07.grants.gov/apply/forms/sample/SF424_2_1-V2.1.pdf, and the post-award Federal Financial Reports form (SF-425), available online at https://apply07.grants.gov/apply/forms/sample/SF425_2_0-V2.0.pdf.

4. Efforts to identify duplication:

The information collected from grantees is project specific and the information is not available other than from the grantees. The information will be used to monitor projects on a quarterly basis, and to ensure on an annual basis that the project's plan conforms to the project's real operating environment.

5. Efforts to minimize the burden on small businesses:

Grantees include states, units of local governments, and Indian Tribes. No grantees are business organizations, small or otherwise.

6. Impact of less frequent collection of information:

If the information requested in the reports is not collected, the Department will not be able to evaluate project progress or financial conditions in accordance with 49 U.S.C. 6703, Division J of the BIL, and the Culvert AOP Program NOFO. The quarterly collection of financial data ensures that the use of Federal funds can be appropriately monitored.

7. Special circumstances:

During the negotiation of the grant agreement, DOT may require the recipient to report information to the agency more often than quarterly. Otherwise, all information collected is consistent with the guidelines in 5 CFR 1320.6.

8. Compliance with 5 CFR 1320.8:

This 180-day clearance is requested pursuant to 5 CFR 1320.8(d)(4).

9. Payments or gifts to respondents:

No payment is made to respondents, other than remuneration to successful Culvert AOP Program applicants. The remuneration to grantees is in the form of reimbursements up to the amount of the Culvert AOP Program grant award as negotiated in the signed and executed grant agreement.

10. Assurance of confidentiality:

All information submitted as part of or in support of any application shall use publicly available data or data that can be made public. If the application includes information the applicant considers to be a trade secret or confidential commercial or financial information, the applicant should do the following: (1) note on the front cover that the submission "Contains Confidential Business Information (CBI)"; (2) mark each affected page "CBI"; and (3) highlight or otherwise denote the CBI portions. DOT protects such information from disclosure to the extent allowed under applicable law. In the event DOT receives a Freedom of Information Act (FOIA) request for the information, DOT will follow the procedures

described in its FOIA regulations at 49 CFR 7.17. Only information that is ultimately determined to be confidential under that procedure will be exempt from disclosure under FOIA.

11. Justification for collection of sensitive information:

None of the information is of a sensitive nature.

12. Estimate of burden hours for information requested:

<u>Requirements</u>	<u># of Annual Submissions</u>	<u>Burden hours per Submission</u>	<u>Total Burden hours</u>
<u>Application Stage</u>			
Applications	200	40	8,000
<u>Grant Agreement Stage</u>			
Requests for information related to signing grant agreements or letters of no prejudice	50	4	200
<i>Total</i>	250		8,200
<u>Project Management Stage</u>			
Quarterly Progress Report	200	2	400
<i>Total</i>	200		400
Grand Total	450		8,600

All burden hour estimates are based on an estimated review of all the requirements associated with the Culvert AOP Program, discussions with appropriate modal staff, and analysis of other Department programs.

Estimate of the cost to respondents:

There is a wide variance in the level of effort required by recipients to comply with the Project Management Stage reporting requirements. A majority of reports, however, will be simple and straightforward. The figures below are representative of a straightforward project of average complexity that has completed construction over a five-year period with a five-year period of performance measurement once the project is complete.

Application Stage

We estimate that it takes approximately 40 person-hours to read the NOFO and compile an application package for a Culvert AOP Program grant. Since DOT expects to receive 200 applications per NOFO announcement, the total hours required are estimated to be 8,000 hours (40 hours x 200 applications = 8,000 hours) on a one-time basis, per announcement. Although various personnel are involved in the development of an application, the average salary is estimated to be \$55 per hour. This is based on the average loaded wage of a project manager in the local government sector of \$55 (Bureau of Labor Statistics). Therefore, the cost to the respondents is computed at \$440,000 (8,000 hours x \$55 = \$440,000).

Grant Agreement Stage:

We estimate that it takes approximately 4 person-hours to respond to DOT's requests for more information in negotiating the grant agreements or letters of no prejudice. Based on other grant programs, DOT estimates that there will likely be 50 grant agreements negotiated per announcement. The total hours required are estimated to be 200 (4 hours x 50 agreements = 200 hours) on a one-time basis, per announcement. Although various personnel are involved in the development of an application, the average salary is estimated to be \$55 per hour, which is based on the average loaded wage of a project manager in the local government sector according to the Bureau of Labor Statistics. Therefore, the cost to the respondents is computed at \$11,000 (200 hours x \$55 = \$11,000).

Project Management Stage:

We estimate that it takes approximately 2 person-hours to develop and submit a quarterly project progress report to DOT for review. Based on other grant programs and the expected number of awards, DOT expects to receive 200 quarterly project progress reports per year, i.e., 4 per year for a total of 50 awards. The total hours required are estimated to be 400 (2 hours x 200 reports = 400 hours). Although various personnel are involved in the development of an application, the average salary is estimated to be \$55 per hour which is based on the average loaded wage of a project manager in the local government sector according to the Bureau of Labor Statistics. Therefore, the cost to the respondents is computed at \$22,000 (400 hours x \$55 = \$22,000).

The grand total annual cost to respondents for the application, grant negotiation, program management and evaluation stages is \$473,000.

13. Estimate of total annual costs to respondents:

There is no additional cost beyond that shown in items 12 and 14.

14. Estimate of cost to the Federal government:

The cost is calculated as follows:

Application Stage:

DOT will review the applications to assess project eligibility and merit and to provide information for the discretionary decision-making process prior to the award of any Culvert AOP Program grants.

We estimate that the average grade level of the reviewers is GS-13/step 5, paid at approximately \$58 per hour. Each project will require approximately 20 person-hours of review as an overall average. Since we expect to evaluate 200 applications, the cost to the federal Government is \$232,000 (20 hours x 200 applications = 4,000 hours x \$58 = \$232,000), per announcement.

Grant Agreement Stage:

Information may be requested from grantees to negotiate the grant agreements under which the Culvert AOP Program funds will be distributed or letters of no prejudice under which eligible activities will be implemented. DOT does not expect to request much information from grantees, since most of the information required is expected to be submitted along with the grant applications.

We estimate that the average grade level of the reviewers is GS-14/step 5, paid at \$69 per hour. Since we expect to negotiate 50 implementation grant agreements and for one employee to spend about eight hours requesting the information and using it to draft the grant agreements, the cost to the federal Government is \$27,600 (8 hours x 50 applications = 400 hours x \$69 = \$27,600), per announcement.

Project Management Stage:

Individuals managing projects throughout DOT vary from GS-11 to GS-14; however, in looking at the averages, it can take a GS-13/step 5 employee (with an average salary of \$58 per hour) about one hour per report to review a Quarterly Progress and Monitoring Report. There are approximately 50 projects requiring reports annually, and a total of 4 reports per project, or 200 submissions, annually. The cost to the federal Government is \$11,600 (1 hour x 200 submissions = 200 hours x \$58 = \$11,600), annually.

The grand total annual cost to the Federal Government for the application, grant negotiation, program management and evaluation stage is \$271,200 as shown in the table below:

Project Stages	Cost to the Federal Government
Application Stage	\$232,000
Grant Agreement Stage	\$27,600
Project Management Stage	\$11,600

The Grand Total	\$271,200
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15. Explanation of program changes or adjustments:

The purpose of this request is to approve collection of information related to the application and implementation of the Culvert AOP Program for FY22. An application template was developed to reduce the burden on applicants and to reduce the burden on the review process.

16. Publication of results of data collection:

There is no Congressional reporting required under the Culvert AOP Program enabling legislation.

17. Approval for not displaying the expiration date of OMB approval:

There is no reason not to display the expiration date of OMB approval.

18. Exceptions to certification statement:

No exceptions are stated.

EXHIBIT A

§6703. National culvert removal, replacement, and restoration grant program

(a) Definitions.-In this section:

(1) Director.-The term "Director" means the Director of the United States Fish and Wildlife Service.

(2) Indian tribe.-The term "Indian Tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

(3) Program.-The term "program" means the annual competitive grant program established under subsection (b).

(4) Secretary.-The term "Secretary" means the Secretary of Transportation.

(5) Undersecretary.-The term "Undersecretary" means the Undersecretary of Commerce for Oceans and Atmosphere.

(b) Establishment.-The Secretary, in consultation with the Undersecretary, shall establish an annual competitive grant program to award grants to eligible entities for projects 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 fish passage around or over the weir; and

(B) weir improvements.

(c) Eligible Entities.-An entity eligible to receive a grant under the program is-

(1) a State;

(2) a unit of local government; or

(3) an Indian Tribe.

(d) Grant Selection Process.-The Secretary, in consultation with the Undersecretary and the Director, shall establish a process for determining criteria for awarding grants under the program, subject to subsection (e).

(e) Prioritization.-The Secretary, in consultation with the Undersecretary and the Director, shall establish procedures to prioritize awarding grants under the program to-

(1) 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 Undersecretary or the Director that could reasonably become listed as an endangered species or a threatened species under that section;

(C) anadromous fish stocks identified by the Undersecretary or the Director as prey for endangered species, threatened species, or protected species, including Southern resident orcas (*Orcinus orcas*); or

(D) anadromous fish stocks identified by the Undersecretary or the Director as climate resilient stocks; and

(2) projects that would open up more than 200 meters of upstream habitat before the end of the natural habitat.

(f) Federal Share.-The Federal share of the cost of a project carried out with a grant to a State or a unit of local government under the program shall be not more than 80 percent.

(g) Technical Assistance.-The Secretary, in consultation with the Undersecretary and the Director, shall develop a process to provide technical assistance to Indian Tribes and underserved communities to assist in the project design and grant process and procedures.

(h) Administrative Expenses.-Of the amounts made available for each fiscal year to carry out the program, the Secretary, the Undersecretary, and the Director may use not more than 2 percent to pay the administrative expenses necessary to carry out this section.

(i) Authorization of Appropriations.-There is authorized to be appropriated to carry out the program \$800,000,000 for each of fiscal years 2022 through 2026.

(Added Pub. L. 117-58, div. B, title I, §21203(a), Nov. 15, 2021, 135 Stat. 676 .)

DIVISION J TITLE VII - NATIONAL CULVERT REMOVAL, REPLACEMENT, AND RESTORATION GRANTS

For an additional amount for “National Culvert Removal, Replacement, and Restoration Grants”, \$1,000,000,000, to remain available until expended, as authorized by section 6203 of title 49, United States Code: Provided, That \$200,000,000, to remain available until expended, shall be made available for fiscal year 2022, \$200,000,000, to remain available until expended, shall be made available for fiscal year 2023, \$200,000,000, to remain available until expended, shall be made available for fiscal year 2024, \$200,000,000, to remain available until expended, shall be made available for fiscal year 2025, and \$200,000,000, to remain available until expended, shall be made available for fiscal year 2026: Provided further, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.