



OFFICE OF  
**INSPECTOR GENERAL**  
U.S. DEPARTMENT OF THE INTERIOR

# **The National Park Service Should Ensure the Land and Water Conservation Fund State Side Program Complies With the Justice40 Initiative and Identify Data Necessary for the Program To Successfully Implement the U.S. Department of the Interior’s “Equity Action Plan”**

**This is a revised version of the report prepared for public release.**



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**INSPECTOR GENERAL**  
U.S. DEPARTMENT OF THE INTERIOR

JUN 17 2024

Memorandum

To: Charles F. Sams III  
Director, National Park Service

From: Nicki Miller *Nicki Miller*  
Acting Assistant Inspector General for Audits, Inspections, and Evaluations

Subject: Final Evaluation Report – *The National Park Service Should Ensure the Land and Water Conservation Fund State Side Program Complies With the Justice40 Initiative and Identify Data Necessary for the Program To Successfully Implement the U.S. Department of the Interior’s “Equity Action Plan”*  
Report No. 2022-ER-017

This memorandum transmits our evaluation report on the National Park Service’s (NPS’) Land and Water Conservation Fund (LWCF) program’s implementation of the Justice40 Initiative and the U.S. Department of the Interior’s (DOI’s) *Equity Action Plan*.

In early 2021, various executive orders (EOs) imposed requirements related to “racial equity” and “environmental justice” within Federal agencies, policies, and programs. Two of these—EO No. 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*,<sup>1</sup> and EO No. 14008, *Tackling the Climate Crisis at Home and Abroad*<sup>2</sup>—directly impact certain NPS programs. Our objectives were to determine whether NPS’ LWCF State Side program implemented (1) the Justice40 Initiative as directed in EO No. 14008 and (2) applicable priority actions identified in DOI’s plan<sup>3</sup> as required by EO No. 13985. See Attachment 1 for our scope and methodology.

## Background

Congress enacted the LWCF Act in 1964 to preserve, develop, and assure access to outdoor recreation, thereby increasing participation in outdoor recreation and aiming to strengthen the health and vitality of American citizens.<sup>4</sup> NPS’ LWCF State Side program provides State and local governments with grants that are used for planning, acquiring lands and waters, and developing facilities for outdoor recreation. Outdoor recreation projects include

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<sup>1</sup> 86 Fed. Reg. 7009 (Jan. 25, 2021), <https://www.govinfo.gov/content/pkg/FR-2021-01-25/pdf/2021-01753.pdf>.

<sup>2</sup> 86 Fed. Reg. 7619 (Feb. 1, 2021), <https://www.govinfo.gov/content/pkg/FR-2021-02-01/pdf/2021-02177.pdf>.

<sup>3</sup> To address EO No. 13985, DOI developed its *Equity Action Plan* in April 2022. Our review focused on the April 2022 plan and unless otherwise stated, all references to DOI’s *Equity Action Plan* refer to that April 2022 plan, which can be found at <https://www.doi.gov/sites/doi.gov/files/eo13985-02-10-2022-doi-equity-action-plan-final-with-cover.pdf>.

<sup>4</sup> Land and Water Conservation Fund Act of 1965, 54 U.S.C. §§ 200301-10.

parks, sports facilities, trails, pools, sport fields, playgrounds, and dog parks. The State Side program offers two types of State assistance grants—formula grants and Outdoor Recreation Legacy Partnership (ORLP) program grants:

- Formula grants are apportioned to States each fiscal year according to a formula contained in the LWCF Act. To receive formula grants, States must submit project applications to NPS, which then obligates apportioned funds for use on approved projects.
- In 2014, Congress appropriated and designated supplemental LWCF funds for a nationally competitive grant program to provide grants to economically disadvantaged urban communities with limited or no access to nearby outdoor recreation. In response, NPS established the ORLP grant program. Unlike LWCF formula grants, ORLP is a nationally competitive grant program.

NPS distributes both types of grants<sup>5</sup> on a matching<sup>5</sup> basis for up to 50 percent of allowable project costs to the States as defined by the relevant statute.<sup>6</sup> Annual funding for the LWCF State Side program increased from \$106 million in fiscal year (FY) 2017 to \$442 million in FY 2023.

## **Equity-Related Executive Orders**

On January 20, 2021, President Biden issued EO No. 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, with the stated purpose “to pursue a comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality.” It also stated, “each agency must assess whether, and to what extent, its programs and policies perpetuate systemic barriers to opportunities and benefits for people of color and other underserved groups.” The EO required each agency to produce a plan for addressing any barriers to full and equal participation in those programs assessed. In response to this EO, DOI developed its *Equity Action Plan* in April 2022. The EO emphasized the need to collect equity-related data, stating that the “lack of data has cascading effects and impedes efforts to measure and advance equity” and that a “first step to promoting equity in Government action is to gather the data necessary to inform that effort.”

On January 27, 2021, the President issued EO No. 14008, *Tackling the Climate Crisis at Home and Abroad*, which established the Justice40 Initiative and directed a whole-of-government effort to ensure that Federal agencies work with States and local communities “to secure environmental justice and spur economic opportunity.” To achieve this initiative, the EO directed agencies to ensure the delivery of at least 40 percent of the overall

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<sup>5</sup> Matching is a cost-sharing concept that requires States to contribute a specified portion of the total grant. For example, for most LWCF grants, the Federal Government provides 50 percent of a grant’s project costs, and the respective State provides the other 50 percent.

<sup>6</sup> Pursuant to 54 U.S.C. § 200301(2), the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands are defined as “States” for the purposes of LWCF. Pursuant to 48 U.S.C. § 1469a(d), “Congressional declaration of policy respecting ‘Insular Areas,’” LWCF grants to eligible territories may receive 100-percent assistance.

benefits from certain Federal investments (discussed in further detail below) to disadvantaged communities.

On February 16, 2023, the President issued EO No. 14091, *Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*,<sup>7</sup> which states that it builds upon previous equity-related EOs (e.g., EO No. 13985) by “extending and strengthening equity-advancing requirements for agencies.” It further requires that:

Each agency head shall support ongoing implementation of a comprehensive equity strategy that uses the agency’s policy, budgetary, programmatic, service-delivery, procurement, data-collection processes, grantmaking, public engagement, research and evaluation, and regulatory functions to enable the agency’s mission and service delivery to yield equitable outcomes for all Americans, including underserved communities.

Additionally, starting in September 2023, and on an annual basis thereafter, concurrent with the agency’s submission to the Office of Management and Budget (OMB) for the President’s Budget, the EO requires each agency to submit an Equity Action Plan that includes an update regarding the progress made on the actions, performance measures, and milestones highlighted in the preceding year’s Equity Action Plan.

## DOI’s Justice40 Initiative Guidance

In July 2021, OMB published interim implementation guidance<sup>8</sup> to Federal agencies requiring them to identify programs that fall within the scope of Justice40, provide a description of the type of benefits that result from the identified covered programs, and develop a methodology for calculating the benefits accruing to disadvantaged communities, which includes metrics to measure the benefits.

In response to this guidance, on August 19, 2021, DOI’s Office of Policy, Management and Budget issued its Justice40 implementation guidance<sup>9</sup> that directed bureaus and offices to identify covered programs and a qualitative list of program benefits by September 10, 2021.

In addition, for each identified covered program, bureaus and offices were required to provide

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**Covered Program:** A Federal Government program that falls within the scope of the Justice40 Initiative because it makes investments in one or more of the following seven areas:

- Climate change
- Clean energy and energy efficiency
- Clean transportation
- Affordable and sustainable housing
- Training and workforce development
- Remediation and reduction of legacy pollution
- Development of critical clean water and waste infrastructure

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<sup>7</sup> 88 Fed. Reg. 10825 (Feb. 22, 2023), <https://www.govinfo.gov/content/pkg/FR-2023-02-22/pdf/2023-03779.pdf>.

<sup>8</sup> OMB Memorandum M-21-28, *Interim Implementation Guidance for the Justice40 Initiative*, issued July 20, 2021.

<sup>9</sup> DOI Memorandum, *Interim Department Guidance on the Justice40 Initiative*, issued August 19, 2021, and updated May 25, 2022.

the Office of Environmental Policy and Compliance (OEPC)<sup>10</sup> the following information by November 19, 2021: (1) a benefits methodology for calculating the covered program benefits, the benefit metrics, and the portion of the benefits that accrue in disadvantaged communities; and (2) a stakeholder engagement plan.<sup>11</sup> On May 25, 2022, OEPC issued updated guidance that directed the bureaus and offices to complete, or revise as needed, all information outlined in the August 2021 implementation guidance and, by June 24, 2022, submit the information to OEPC. On June 24, 2022, DOI released its list of covered programs, which included LWCF.

In September 2023, DOI received a request from OMB to update the list of Justice40 covered programs. OEPC directed all bureaus and offices to review the existing list of covered programs and determine whether there were any programs to add, remove, or rename for clarity. In November 2023, DOI issued a new list of 75 covered programs. NPS' LWCF program remained on the list, but with the State Side program's ORLP and formula grants broken out into separate covered programs.

### **DOI's Equity Action Plan**

To address EO No. 13985, on April 14, 2022, DOI published its *Equity Action Plan*,<sup>12</sup> in which “the Department identified three focus areas that support the agency’s mission and have high potential for equity impact:” (1) “Contracts [with] businesses with characteristics that align with the definition of underserved communities,” (2) “Tribal discretionary grants,” and (3) “Recreation on DOI-managed lands and waters and beyond.” In evaluating these focus areas, DOI identified four priority actions to address barriers to underserved communities. Two of these actions<sup>13</sup> are relevant to the State Side program:

- **Action 1: “Build upon the Department’s data strategies to improve the collection of equity-related data.”** The plan emphasizes tracking progress through various indicators and data collection, with recreation as one focus area. It also states, “The Department recognizes data strategies will not have immediate impacts on improving equity; however, collecting and understanding data will enable the Department to track and monitor the impact of initiatives and interventions.”

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<sup>10</sup> DOI’s OEPC is within the Office of Policy and Environmental Management, which is organizationally located within the Office of Policy, Management and Budget. OEPC provides guidance and leadership for DOI’s compliance with the full range of existing environmental justice statutes, EOs, regulations, and other requirements. According to DOI’s guidance, OEPC is responsible for coordinating Justice40 efforts across DOI and for answering questions bureaus and offices may have about implementation of DOI’s interim guidance.

<sup>11</sup> A stakeholder engagement plan is a plan to engage stakeholders relevant to the covered agency program. Plans should include a timeline for engaging relevant stakeholders, to include grantees and recipients, and a list of key issues related to implementation of the Justice40 Initiative with respect to the covered program for stakeholder input.

<sup>12</sup> In September 2023, we became aware of DOI’s draft FY 2023 *Equity Action Plan*, developed to address EO No. 14091 requirements regarding progress reporting on the FY 2022 DOI *Equity Action Plan*. DOI released the updated plan on February 14, 2024.

<sup>13</sup> The other two priority actions are Action 2: “Heighten awareness of opportunities and address structural barriers within DOI processes that hinder participation by underserved communities in DOI procurements” and Action 3: “Improve Access to and Awareness of Tribal Discretionary Grant Funding.”

- **Action 4: “Increase Opportunities to Access Public Lands, Prioritizing Access to Recreation Areas and Services in Urban Communities.”** The plan identifies that one of the areas that the LWCF program influences is supporting close-to-home recreation opportunities through thoughtful investment in programs that provide financial or technical assistance to communities. The plan further explains that the:

LWCF state investments secure public access, improve recreational opportunities, and preserve ecosystem benefits for local communities. The Department can improve implementation of LWCF programs through actions such as offering targeted technical assistance to enhance underserved community ability to apply for grants; incorporating additional equity considerations into LWCF projects; and prioritizing acquisitions near urban lands and/or areas with high populations of underserved communities.

## Results of Evaluation

The EO No. 14008 Justice40 Initiative requires agencies to identify applicable program investment funds and consider interim guidance detailing “how certain Federal investments might be made toward a goal that 40 percent of the overall benefits flow to disadvantaged communities” for selected, or covered, programs. We found that NPS did not take sufficient steps toward implementing Justice40 because NPS had not completed and submitted required information to OEPC that would assist NPS in measuring progress in implementing Justice40 and ensuring meaningful stakeholder engagement.

EO No.13985 emphasized the need to collect equity-related data, stating that the “lack of data has cascading effects and impedes efforts to measure and advance equity” and that a “first step to promoting equity in Government action is to gather the data necessary to inform that effort.” Despite NPS’ ongoing efforts, we found that NPS did not identify in its draft implementation plan (which it created in response to DOI’s *Equity Action Plan*) the data necessary to track, monitor, and report the impact and effectiveness of DOI’s priority actions—one of which is intended to improve public land access for underserved communities.

### **NPS Did Not Take Sufficient Steps To Implement Justice40 in the State Side Program**

OMB’s Justice40 implementation guidance issued in July 2021 requires agencies to work with OMB to review and identify covered programs that fall within the scope of Justice40. For this initiative, a “covered program” is a Federal Government program that makes covered investment<sup>14</sup> benefits in one or more of the seven investment areas identified in EO No. 14008.

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<sup>14</sup> According to OMB Memorandum M-21-28, a covered investment is one or more of the following: (1) Federal financial assistance as defined at 2 C.F.R. Part 200; (2) direct payments or benefits to individuals; (3) Federal procurement benefits (acquisition of goods and services for the Federal Government’s own use); (4) programmatic Federal staffing costs (e.g., Federal pay for staff that provide technical assistance); and (5) additional Federal investments under covered programs as determined by OMB.

To determine which DOI programs should be classified as covered programs, DOI's Office of Policy, Management and Budget directed bureaus and offices to submit their suggestions to OEPC in September 2021. We found that, initially, program officials within NPS did not identify the State Side program as eligible for Justice40. A DOI official told us that the Office of the Secretary later identified LWCF as covered under Justice40; in DOI's publicly released June 2022 list of covered programs (and later in DOI's September 2022 submission to OMB), NPS' LWCF program was included in the list of 65 covered programs. Based on the required OMB documents submitted to OEPC for the LWCF program, NPS identified the State Side program's ORLP grants as applicable to Justice40. Approximately 1 year later, in September 2023, NPS included the formula grants as a covered program in addition to ORLP grants.

Moreover, we found that, once the State Side program's ORLP grants were identified as applicable to Justice40 in June 2022, NPS did not take sufficient steps toward implementing Justice40. Specifically, NPS did not establish a methodology for calculating program benefits accruing to disadvantaged communities or create a stakeholder engagement plan for ORLP, as required by OMB and DOI's Justice40 implementation guidance. Without establishing a clear measurement of progress made toward achieving the set goal and meaningful stakeholder engagement, NPS cannot maximize the benefits to underserved communities as directed by OMB. Similarly, with the September 2023 inclusion of the formula grants as a separate covered program, NPS must take additional steps to develop the Justice40 documentation so it can ensure compliance with OMB and DOI's Justice40 implementation guidance.

On October 1, 2023, NPS updated its LWCF Manual<sup>15</sup> to incorporate Justice40 into program processes. The LWCF Manual states that when a State submits a new or revised Open Project Selection Process (OPSP)<sup>16</sup> to NPS for review, "NPS shall review OPSPs against the requirements of EO 14008 and subsequent guidance to agencies." However, when we asked about specific implementation of this new requirement, an NPS senior official confirmed that NPS has not established criteria for how NPS staff will review new OPSPs to ensure compliance, nor is there a timeline or plan to review existing OPSPs and work with States on revisions that align with NPS' guidance as it relates to the EO. Creating clear criteria for NPS staff reviewing OPSPs is important to ensure consistency in reviewing and approving the OPSPs for each State and to ensure States have a clear understanding of the requirements and target dates to comply with the LWCF Manual.

Without criteria, and without revised OPSPs, NPS risks further delaying Justice40 implementation, which potentially limits and delays distribution of program funds to disadvantaged communities. In FY 2023, State Side program funding totaled \$442 million, an amount that could have a significant impact on Justice40 goals. In addition, NPS cannot ensure

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<sup>15</sup> NPS, *Land and Water Conservation Fund State Assistance Program, Federal Financial Assistance Manual*, Vol. 72, effective October 1, 2023.

<sup>16</sup> Each State shall develop an OPSP that provides objective criteria and standards for grant selection that are explicitly based on each State's priority needs for the acquisition and development of outdoor recreation resources. Each State must produce a Statewide Comprehensive Outdoor Recreation Plan at least once every 5 years and implement its recommendations through the revised set of OPSP criteria that conform to any changes in Statewide Comprehensive Outdoor Recreation Plan priorities.

that the funds are directed to one or more of the seven investment areas identified by Justice40 that have climate-related impacts.

### **NPS Has Not Identified Data Necessary To Demonstrate the State Side Program's Successful *Equity Action Plan* Implementation**

DOI's *Equity Action Plan* includes two priority actions relevant to the State Side program: equity-related data collection and prioritization of recreational access and services in historically underserved or disadvantaged communities. We found that NPS' efforts to meet these priority actions are ongoing but have not yet been completed. To execute the *Equity Action Plan*, DOI created a Recreation Equity Working Group of representatives from the land management bureaus<sup>17</sup> and required each bureau to develop an implementation plan. NPS' draft implementation plan provides a progress update on accomplishments and actions related to equity and strategies to further advance equity in FY 2024; however, at the start of FY 2024 (October 2023), the implementation plan was still in draft. NPS made some equity-related updates to the LWCF Manual, such as clarifying that the ORLP goal is to continue to provide recreation opportunities to economically disadvantaged communities in urbanized areas and remove prior limitations that allowed participation from only larger urbanized areas as designated by the U.S. Census Bureau. Further, the updates added that new or revised OPSPs developed by each State must be designed to accomplish new goals, including the creation of more parks in underserved communities.

While we acknowledge NPS' ongoing efforts, we found that NPS' draft implementation plan has not identified the specific data necessary to track, monitor, and report successful progress in implementing DOI's *Equity Action Plan* priority actions. As discussed earlier, the *Equity Action Plan* emphasizes tracking progress through various indicators and enhanced data collection. It also states, "The Department recognizes data strategies will not have immediate impacts on improving equity; however, collecting and understanding data will enable the Department to track and monitor the impact of initiatives and interventions."

However, the draft implementation plan does not include a strategy to (1) track funding distribution by location and demographics, (2) analyze formula grants that support underserved communities, and (3) track outreach efforts that could address some of the priority actions described in the *Equity Action Plan*. These data are necessary to demonstrate a successful implementation of the DOI *Equity Action Plan* and Justice40.

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<sup>17</sup> In particular, the Bureau of Land Management, Bureau of Reclamation, U.S. Fish and Wildlife Service, and NPS provided such representatives.

## *No Strategy To Analyze Funding Distribution by Location and Demographics*

We found that the draft implementation plan did not include a strategy to analyze formula program funding distribution by location coupled with demographic data. The *Equity Action Plan* describes several key data points, including demographics, that are needed to better understand public land usage and suggests using metrics to evaluate a program’s effectiveness in improving public land access for underserved communities. The draft implementation plan lists key actions such as including environmental justice tools in investment decision criteria and expanding upon existing programs that support urban communities in growing community resiliency. NPS stated in its plan that it intends to use metrics that will track park acreage or miles of trails in identified DOI priority areas<sup>18</sup> to measure the outcomes of using these environmental justice tools and expanding upon existing programs. Nonetheless, the draft plan does not specify how the program includes these tools in decision making, which specific data NPS plans to use for this metric, or how NPS plans to determine areas needing further investment.

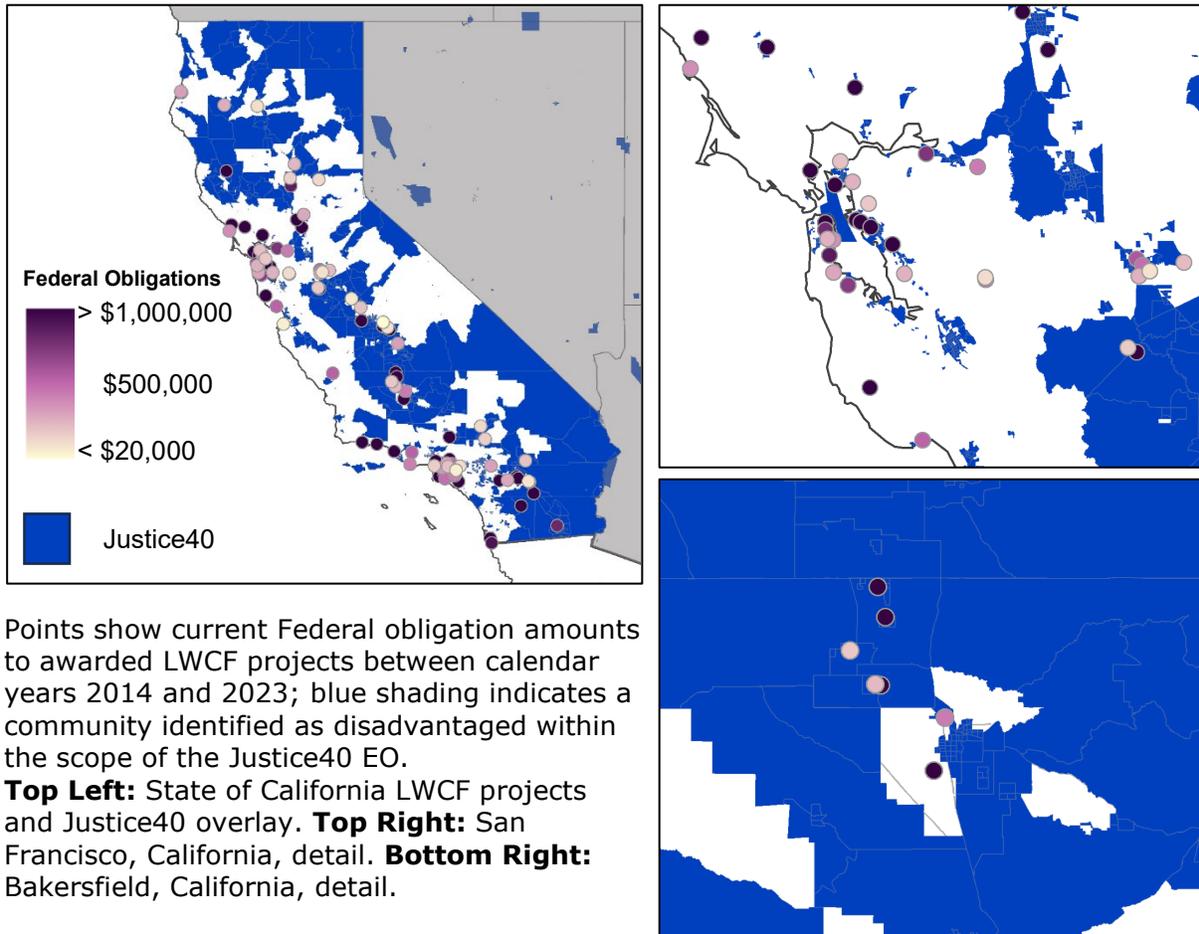
To provide an illustrative example for informational purposes, we conducted our own analysis using publicly available data—such as the Climate and Economic Justice Screening Tool<sup>19</sup> to identify Justice40 communities—and the LWCF project location information obtained from one State to demonstrate project funding distribution geographically and demographically (see Figure 1 for illustrations of this analysis). This type of analysis is not all inclusive but could potentially highlight areas that are not receiving LWCF funding and provide demographic data to NPS, allowing it to work with the States to enhance the project selection process to further prioritize applications that best meet the requirements of the executive orders and DOI’s own implementation plans.

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<sup>18</sup> The Secretary develops the criteria for DOI’s priority areas, and FY 2023 focus areas include environmental justice, urban heat map areas, and military outdoor recreation.

<sup>19</sup> On February 28, 2022, the Council on Environmental Quality released a beta version of the Climate and Economic Justice Screening Tool with the stated purpose that “Federal agencies will use the tool to help identify disadvantaged communities that will benefit from programs included in the Justice40 Initiative.” Available at <https://screeningtool.geoplatform.gov/en/#3/33.47/-97.5>.

**Figure 1: OIG Analysis of California LWCF Projects and Justice40 Communities Between Calendar Years 2014 and 2023**



*No Strategy To Collect or Analyze Formula Grants That Support Underserved Communities*

We also found that the draft implementation plan did not include a strategy to collect or analyze the number and amount of formula grants that support underserved communities. One of the *Equity Action Plan*'s near- to mid-term indicators (1 to 5 years) to show progress in increasing equity consideration is to track such grant award information. Program officials stated that the program does track ORLP grant awards because all ORLP funds are distributed to underserved communities; however, they acknowledged that the program has not tracked this information for the formula grants.

*No Strategy To Track Outreach Efforts*

Finally, we found that the draft implementation plan did not include a strategy to track NPS' outreach efforts to underserved communities. The *Equity Action Plan* states that DOI can increase equity considerations in the LWCF program "through actions such as offering targeted technical assistance to enhance underserved community ability to apply for grants." NPS'

implementation plan includes a strategy for FY 2024 to invest in developing and marketing a technical assistance program for urban communities for ORLP and “LWCF grant” application development. Even though the plan refers to LWCF grants, an NPS official stated that this strategy is for only ORLP grants and not formula grants. NPS’ implementation plan states NPS’ intent is to create metrics to measure progress and look at the expanded representation of projects in underrepresented communities by using LWCF and ORLP data showing distribution of projects; however, NPS has not established how it plans to obtain this data for either ORLP or formula grants. It is important that NPS also specify a strategy for determining periodic assessment of State-level outreach activities and identify data, potentially in collaboration with the States.

Most States surveyed informed us that they conduct outreach efforts to underserved communities, but States do not report to NPS on these efforts, nor do they provide analysis to NPS regarding effectiveness of these efforts. Without collecting outreach effort information, NPS cannot determine whether those efforts are effective or whether there is a need for targeted technical assistance.

#### *Data Needed To Address Equity Action Plan Priority Actions and Justice40*

Without establishing the data necessary to meet the *Equity Action Plan* priority actions early on, NPS will not be able to report complete and accurate information to support progress and successful implementation. In addition, EO No. 13985 and the *Equity Action Plan* emphasize that identifying and tracking data will help NPS understand potential systemic equity barriers present in its State Side program. EO No. 14091 also requires implementing equitable data practices to assess the extent to which Government programs and policies yield consistently fair, just, and impartial treatment of all individuals.

Further, OMB guidance requires agencies with covered programs under Justice40 to identify the benefits of the programs, determine how the programs distribute benefits, and calculate and report on reaching the 40-percent goal. The lack of data could also impede NPS’ ability to report on progress made in implementing Justice40.

## **Conclusion**

Even though the ORLP portion of the State Side program was identified as a covered program under Justice40 since September 2022, NPS has not yet taken sufficient steps to implement the initiative. Specifically, NPS did not establish the required benefit metrics and stakeholder engagement plan for ORLP. This inaction hampers NPS’ ability to (1) affect underserved communities through outreach and effective engagement and (2) measure progress and contributions to one or more of the investment areas identified by Justice40. Additionally, because the State Side program’s formula grants were included under Justice40 as of September 2023, NPS risks further delays in implementation because it does not have specific criteria or a timeline for evaluating State OPSPs to apply Justice40 requirements described in the LWCF Manual to the State Side program formula grants. NPS will also need to take additional actions, like establishing benefits metrics and a stakeholder engagement plan, to implement Justice40 with the inclusion of the formula grants as a separate covered program.

Despite NPS' ongoing efforts to meet applicable priority actions described in DOI's *Equity Action Plan*, NPS does not have the data necessary to track, monitor, and report the impact associated with implementing the plan. Without establishing the data necessary to meet DOI's *Equity Action Plan* priorities early on, NPS will not be able to assess whether equity barriers to State Side benefits and opportunities exist or report complete and accurate information to support progress and successful implementation of DOI's *Equity Action Plan* priorities and actions. Further, the lack of data could also impede NPS' ability to report on progress made in implementing Justice40.

LWCF State Side program funding increased from \$106 million in FY 2017 to \$442 million in FY 2023.<sup>20</sup> While this program presents significant opportunities to provide funds to underserved communities, the lack of progress in implementing Justice40 for the State Side program potentially limits and delays distribution of funds to these communities.

## Recommendations

We make six recommendations that, if implemented, will improve NPS' efforts to implement Justice40 and the *Equity Action Plan* for its LWCF State Side program, as required. We provided a draft of this report to NPS for review, and NPS concurred with all recommendations. We consider all recommendations resolved. We determined that Recommendations 1 and 4 are significant and will be reported as such in our semiannual report to Congress in accordance with the Inspector General Act.<sup>21</sup> Below we summarize NPS' response to our recommendations, as well as our comments on its response. See Attachment 2 for the full text of NPS' response; Attachment 3 lists the status of each recommendation.

We recommend that NPS:

1. Pursuant to the requirements set forth in DOI's Justice40 implementation guidance, complete and submit required Justice40 documents, including a methodology for calculating program benefits accruing to disadvantaged communities and a stakeholder engagement plan, to ensure compliance with Office of Management and Budget Memorandum M-21-28.

**NPS Response:** NPS concurred with this recommendation and explained modifications the LWCF State Side program will institute going forward to comply with OMB Memorandum M-21-28. It stated that changes to its benefits methodology for current and future grant cycles include tracking "cost, demographics, and acreage relative to projects being reviewed and granted, where underserved communities are affected" and retroactively reviewing "past grant data to tally and track performance in the above data areas" for "all covered post-completion transactions including adjustments

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<sup>20</sup> These amounts do not include funding for program administration.

<sup>21</sup> The Inspector General Act of 1978, 5 U.S.C. § 405(b), requires inspectors general to prepare semiannual reports summarizing OIG activities during the immediately preceding 6-month periods ending March 31 and September 30. It also states that these semiannual reports should include an identification of each "significant recommendation" described in previous semiannual reports on which corrective action has not been completed.

in use or land conversions.” NPS also stated that it would modify its stakeholder consultation and engagement to require States to submit (1) “Community Impact Statements for ORLP Grants” that include demographic indicators, anticipated visitation increases, anticipated contracting of women- and minority-owned businesses, and increased acreage and facility access; and (2) letters of support from communities working on project development with the State. It also stated that it would “ensure that the community impact statement questions and report data will be made available to the public.”

NPS provided a December 31, 2025 target implementation date.

**OIG Comment:** Based on NPS’ response, we consider this recommendation resolved. NPS’ target implementation date for this recommendation is more than 1 year from this report’s issuance date. However, NPS provided us with mitigating or ongoing measures it plans to take until the recommendation is fully implemented. We will consider this recommendation implemented when NPS provides documentation demonstrating that it has completed and submitted required Justice40 documents, including a methodology for calculating program benefits accruing to disadvantaged communities and a stakeholder engagement plan, in accordance with the requirements set forth in DOI’s Justice40 implementation guidance.

2. Develop guidance for NPS staff reviewing Open Project Selection Process documents to ensure compliance with the existing DOI Justice40 requirements.

**NPS Response:** NPS concurred with this recommendation and stated, “the Stateside LWCF will collect demographic data as part of the project submission and review process for the Stateside LWCF together with our other compliance data collected to ensure project eligibility.” NPS also stated, “In instances where the Stateside LWCF program runs competitive grants, ORLP, the state’s submission of the Community Impact Statement data . . . will meet requirements in the future.”

NPS provided a December 31, 2025 target implementation date. In a followup email, NPS clarified it intends to address this recommendation through “the development of Justice40 guidance in the Manual’s compliance coordination section to outline specific Justice40 requirements” and inclusion of “additional language in the LWCF Manual’s ORLP section indicating how Justice40 objectives are tracked and met.”

**OIG Comment:** Based on NPS’ response, we consider this recommendation resolved. NPS’ target implementation date for this recommendation is more than 1 year from this report’s issuance date. However, NPS provided us with mitigating or ongoing measures it plans to take until the recommendation is fully implemented. We will consider it implemented once NPS provides documentation

demonstrating that it has developed guidance, such as an update to the LWCF Manual, for NPS staff reviewing Open Project Selection Process documents to ensure compliance with the existing DOI Justice40 requirements.

3. Review current and new Open Project Selection Process documents to ensure compliance with DOI Justice40 requirements.

**NPS Response:** NPS concurred with this recommendation and stated, “we believe that the additional tracking of economic and demographic information as well as area of effect information, will ensure compliance with DOI’s Justice40 requirements.” NPS further stated it will continue to build State Side LWCF staffing capacity “to review OPSP documents and ensure integration with Justice 40 requirements” and “ensure EO and Departmental requirements on Environmental Justice are being appropriately followed and embedded.”

NPS provided a December 31, 2025 target implementation date.

**OIG Comment:** Based on NPS’ response, we consider this recommendation resolved. NPS’ target implementation date for this recommendation is more than 1 year from this report’s issuance date. However, NPS provided us with mitigating or ongoing measures it plans to take until the recommendation is fully implemented, such as tracking of economic and demographic information and working toward building staffing capacity to ensure completion of the recommendation. We will consider this recommendation implemented when NPS provides documentation demonstrating it completed review of Open Project Selection Process documents in accordance with its newly established guidance discussed in Recommendation 2.

4. Update the Land and Water Conservation Fund Manual to incorporate the use of environmental justice tools into State grant decision making.

**NPS Response:** NPS concurred with this recommendation and stated it will add guidance to the LWCF Handbook “on how and what demographic and area of effect data will be collected, followed, archived, and tracked both in the future and retroactively.” NPS also stated it plans to include in its LWCF Handbook an “acknowledgement of how the ORLP program is meeting its Congressional requirements to upgrade investment in recreation resources and increase access to greenspace in underserved communities” as well as standards “for adding Community Impact Statements to the ORLP competitive application requirements.”

NPS provided a December 31, 2025 target implementation date.

**OIG Comment:** Based on NPS’ response, we consider this recommendation resolved. Although NPS’ target implementation date for this recommendation is more than 1 year from this report’s issuance date, we conclude that, given the

nature of the recommendation and the steps that must be taken, it is a reasonable timeframe; our recommendation followup team will periodically assess progress in this area. In addition, we acknowledge NPS' efforts to develop guidance for data collection; however, as set forth in the body of the report, there are environmental justice tools available for NPS use. We will consider this recommendation implemented once NPS provides us its updated LWCF Manual incorporating the use of environmental justice tools into State grant decision making.

5. Identify the data needed to demonstrate successful implementation of DOI's *Equity Action Plan* specific to the State Side program and update its implementation plan accordingly.

**NPS Response:** NPS concurred with this recommendation and stated that its partners monitor and support the State Side program using geographic information system applications, which includes maintaining "a dataset of historical Stateside LWCF investment across the country." NPS also stated, however, that it is working with its partner "to track past, current, and future investment in underserved communities" starting with "the FY21-24 period grant sites to address current Justice40 reporting needs."

NPS provided a December 31, 2024 target implementation date. In response to a followup email we sent to clarify NPS' written comments regarding the implementation plan, NPS stated that "data development, staffing and grant development processes are incorporated" in its implementation plan to address DOI's *Equity Action Plan*.

**OIG Comment:** Based on NPS' response, we consider this recommendation resolved. We will consider it implemented when NPS provides documentation demonstrating that it has identified the data needed for successful implementation of DOI's *Equity Action Plan* specific to the State Side program and that it has updated its implementation plan accordingly.

6. Finalize its implementation plan and develop a process to track progress made in meeting the priority actions set forth in DOI's *Equity Action Plan* related to the State Side program.

**NPS Response:** NPS concurred with our recommendation and stated, "We continue to actualize our ability to track past projects and deliver program obligations to our state partners." NPS further stated that through building staffing capacity to focus on Justice40, working with its partners on developing geographic information system data examination, and implementing data collection standards, it plans to make its "first report on Justice40 requirements, FY21-24 period, by Fall 2024."

NPS provided a December 31, 2024 target implementation date. In response to a followup email we sent to clarify NPS' written comments regarding the status of the implementation plan, NPS stated that its implementation plan "in answer to the DOI's Equity Action Plan to Enhance Equity and Access in DOI Recreation is in review."

**OIG Comment:** Based on NPS' response and followup email, we consider this recommendation resolved. We will consider it implemented when NPS provides documentation demonstrating that it has issued its implementation plan and developed a process to track progress made in meeting the priority actions set forth in DOI's *Equity Action Plan* related to the State Side program.

We will track open recommendations for resolution and implementation. We will notify Congress about our findings, and we will report semiannually, as required by law, on actions you have taken to implement the recommendations and on recommendations that have not been implemented. We will also post a public version of this report on our website.

If you have any questions about this report, please contact me at [aie\\_reports@doioig.gov](mailto:aie_reports@doioig.gov).

Attachments (3)

# Attachment 1: Scope and Methodology

## Scope

We reviewed the National Park Service's (NPS') and the Land and Water Conservation Fund (LWCF) State Side program's actions (as of October 2023) related to the implementation of Justice40 and the priorities and actions identified in the U.S. Department of the Interior's (DOI's) *Equity Action Plan*, dated April 14, 2022.

## Methodology

We conducted our evaluation in accordance with the *Quality Standards for Inspection and Evaluation* as put forth by the Council of the Inspectors General on Integrity and Efficiency. We believe that the work performed provides a reasonable basis for our conclusions and recommendations.

To accomplish our objective, we:

- Reviewed laws, regulations, policies, and procedures related to the State Side program.
- Gathered background information on the work of the State Side program as it relates to equity and diversity.
- Reviewed Executive Order (EO) No. 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, dated January 20, 2021.
- Reviewed EO No. 14008, *Tackling the Climate Crisis at Home and Abroad*, dated January 27, 2021.
- Reviewed EO No. 14091, *Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, dated February 16, 2023.
- Reviewed Office of Management and Budget (OMB) Memorandum M-21-28, *Interim Implementation Guidance for the Justice40 Initiative*, dated July 20, 2021.
- Reviewed OMB Budget Data Request No. 22-37 related to the Justice40 Initiative, dated July 25, 2022.
- Reviewed DOI's stepdown guidance, *Interim Department Guidance on the Justice40 Initiative*, dated August 19, 2021, and updated May 25, 2022.
- Reviewed DOI Secretarial Order No. 3406, *Establishment of a Diversity, Equity, Inclusion and Accessibility Council*, dated February 17, 2022.
- Reviewed DOI's *Equity Action Plan*, dated April 14, 2022.

- Reviewed NPS’ draft implementation plan developed to implement DOI’s *Equity Action Plan* as of July 20, 2023.
- Interviewed State Side program and NPS officials to:
  - Understand existing program policy and equity-related considerations currently implemented in the State Side program.
  - Obtain any information related to actions taken or plans to implement the requirements as outlined in the EOs and any existing data, policy analysis, or State-level equity assessment as to where funds are distributed, either in response to the EOs or for another purpose.
- Interviewed NPS program management and State officials, and surveyed officials from nongovernmental organizations to learn their perspective regarding the participation of underserved communities in the program.
- Interviewed DOI officials from the following offices to gain an understanding of implementation requirements related to Justice40 and DOI’s *Equity Action Plan* for the State Side program:
  - Office of Diversity, Inclusion and Civil Rights
  - Office of Environmental Policy and Compliance
  - Office of Planning and Performance Management
- Selected a judgmental sample of 10 States for the purpose of obtaining LWCF project sites, soliciting perspectives regarding challenges underserved communities face in accessing LWCF funding, and understanding States’ outreach efforts. Our sample consisted of five States from NPS’ Southeast Region (Connecticut, Florida, Massachusetts, New York, and West Virginia) and five from NPS’ Midwest Region (California, Illinois, Minnesota, Nebraska, and Wisconsin).
- To produce Figure 1, we plotted eligible Justice40 communities in California using geospatial data sourced from two Federal databases. We identified LWCF projects with start dates between January 7, 2014, and December 15, 2023, and mapped them using street addresses, scope descriptions, and geocoordinates provided by State officials. To verify the accuracy of obligation amounts for the project sites, we compared State information to data housed in our Financial and Business Management System and confirmed minimal variation between the datasets. We provided the graphic information to State officials from the California Department of Parks and Recreation, who then provided an additional 27 projects approved since our last data call for inclusion in our data mapping. The resulting graphic may be used to show LWCF project locations and spending in the context of Justice40 communities.

# **Attachment 2: Response to Draft Report**

The National Park Service's response to our draft report follows on page 19.



# United States Department of the Interior

NATIONAL PARK SERVICE

1849 C Street, NW  
Washington, DC 20240

April 24, 2024

To: Assistant Inspector General for Audits, Inspections and Evaluations

From: Director 

Subject: National Park Service (NPS) responses to: Office of Inspector (OIG) Draft Evaluation Report titled: *“National Park Service Should Ensure the Land and Water Conservation Fund State Side Program Complies with the Justice 40 Initiative and Identify Data Necessary for the Program to Successfully Implement the U.S. Department of the Interior’s Equity Action Plan” (Report No. 2022-ER-017)*

Thank you for the opportunity to review and comment on the subject OIG Draft Evaluation Report. We appreciate OIG’s review of the NPS issues related to the Department of the Interior’s (DOI) Equity Action Plan. Below are the responses to the specific recommendations, including the steps the NPS has taken or will be taking to address the concern raised.

1. Pursuant to the requirements set forth in DOI’s Justice40 implementation guidance, complete and submit required Justice40 documents, including a methodology for calculating program benefits accruing to disadvantaged communities and a stakeholder engagement plan, to ensure compliance with Office of Management and Budget Memorandum M-21-28.

Concur: The Stateside Land and Water Conservation Fund (LWCF) Formula Grants and Outdoor Recreation Legacy Partnership (ORLP) programs are managed together and were recognized as core DOI programs meeting the Justice40 Initiative in June 2022. The Core Benefits derived from these programs are upgrades to recreation facilities and increased access to greenspace by increasing proximity for underserved communities. Stateside LWCF Formula Grants and ORLP programs have slightly different mandates and impacts.

Formula Grants: The communities and projects are identified and reviewed by the states and then recommended to the Stateside LWCF for approval. Stateside LWCF program funds are apportioned for states prior to project approval.

ORLP: ORLP is a national merit-based program focused on underserved community needs, where states nominate projects to a merit review panel that Stateside LWCF manages.

Evaluation: The Stateside LWCF’s main evaluation tools, both programs, are statutory in nature. The primary evaluation tools are compliance requirements for federal encumbrance (e.g., NHPA, NEPA, ESA) and financial disbursement (2 CFR 200). ORLP uses a merit-review panel to ensure

that underserved communities are being met based on letters of support, project descriptors, and state endorsement.

To meet requirements in accord with OMB M-21-28, the Stateside LWCF program will institute the following modifications going forward:

A. Benefits Methodology

1. Current and Future: Beginning with the fiscal year (FY) 2024 Stateside grant cycle (In Process) and Round 7 ORLP (April 2024), we add to our Application and Revision Form (NPS 10-904) information that tracks: cost, demographics, and acreage relative to projects being reviewed and granted, where underserved communities are affected.
2. Retroactive: Beginning with staffing increases following the activation of full appropriations of the Stateside LWCF program in FY 2024, a task force will review past grant data to tally and track performance in the above data areas: cost, demographics, and acreage relative to projects being reviewed and granted. This work will include all covered post-completion transactions including adjustments in use or land conversions.

B. Stakeholder Consultation and Engagement

1. Community Impact Statements for ORLP Grants: As a state selected and nationally competed grant program directed at enhancing recreation opportunities in underserved communities, each nominating state will submit a statement indicating:
  - a. Demographic Indicators of Communities Effected, e.g., employment, ethnicity
  - b. Anticipated Visitation Increases
  - c. Anticipated Contracting of Women and Minority Owned Business
  - d. Total Amount of Increased Acreage/Facilities to be Accessed by Project
2. Partner Evaluation Tracking: Letters of support from communities working with the state on project development will be required, where applicable, beyond the state officials (State Liaison Officer, Acting State Liaison Officer). ORLP will maintain a list of partner organizations associated with each program site for future follow up.

C. In compliance with the reporting on Justice40, the LWCF program will ensure that the community impact statement questions and report data will be made available to the public.

Responsible Official: Lauren Imgrund, Associate Director, Partnerships & Civic Engagement

Target Date: December 31, 2025

2. Develop guidance for NPS staff reviewing Open Project Selection Process (OPSP) documents to ensure compliance with the existing DOI Justice40 requirements.

Concur: As stated above, this program's OPSP is state defined and directed. To meet Executive Order (EO) requirements, e.g., EO 13595, the Stateside LWCF will collect demographic data as part of the project submission and review process for the Stateside LWCF together with our other compliance data collected to ensure project eligibility. In instances where the Stateside LWCF program runs competitive grants, ORLP, the state's submission of the Community Impact Statement data (see B.1 above), will meet requirements in the future.

Responsible Official: Lauren Imgrund, Associate Director, Partnerships & Civic Engagement

Target Date: December 31, 2025

3. Review current and new Open Project Selection Process documents to ensure compliance with DOI Justice40 requirements.

Concur: As the Stateside LWCF's OPSP is state directed, as described above, we believe that the additional tracking of economic and demographic information as well as area of effect information, will ensure compliance with DOI's Justice40 requirements. As we continue to reorganize the understaffed Stateside LWCF, we will build our capacity during FY24 and FY25 to review OPSP documents and ensure integration with Justice 40 requirements. This individual or team will assess what is being done in other Bureaus and Agencies to ensure EO and Departmental requirements on Environmental Justice are being appropriately followed and embedded.

Responsible Official: Lauren Imgrund, Associate Director, Partnerships & Civic Engagement

Target Date: December 31, 2025

4. Update the Land and Water Conservation Fund Manual to incorporate the use of environmental justice tools into State grant decision making.

Concur: Guidance on how and what demographic and area of effect data will be collected, followed, archived, and tracked both in the future and retroactively, will be added into the next edition of the LWCF Handbook. In addition, there will be clear acknowledgement of how the ORLP program is meeting its Congressional requirements to upgrade investment in recreation resources and increase access to greenspace in underserved communities. Standards for adding Community Impact Statements to the ORLP competitive application requirements will be outlined in the upcoming LWCF Manual.

Responsible Official: Lauren Imgrund, Associate Director, Partnerships & Civic Engagement

Target Date: December 31, 2025

5. Identify the data needed to demonstrate successful implementation of DOI's *Equity Action Plan* specific to the State Side program and update its implementation plan accordingly.

Concur: Stateside LWCF is well monitored and supported through GIS application by our partners. [REDACTED] maintains a dataset of historical Stateside LWCF investment across the country. We are working with [REDACTED] GIS team to track past, current, and future investment in underserved communities. We will begin with tracking the FY21-24 period grant sites to address current Justice40 reporting needs. We estimate 3 months before we will have an initial estimate of project effect towards the 40 percent goal of enhancing recreational experience in underserved communities.

Responsible Official: Lauren Imgrund, Associate Director, Partnerships & Civic Engagement

Target Date: December 31, 2024

6. Finalize its implementation plan and develop a process to track progress made in meeting the priority actions set forth in DOI's *Equity Action Plan* related to the State Side program.

Concur: As the Stateside LWCF continues to grow its team and its reach in line with Congressional direction under the Great American Outdoors Act. We will be doubling the number of staff beyond the limited capacity we are operating with today. We continue to actualize our ability to track past projects and deliver program obligations to our state partners. We held listening sessions with our state partners across the country. We continue to process over 350 incoming FY24 state grant applications for Stateside LWCF Formula Grants and ORLP.

With the above measures in place, we will make our first report on Justice40 requirements, FY21-24 period, by Fall 2024. These measures include our targeted staff to focus on Justice40 (Point 3), our developing GIS data examination collaboration with [REDACTED] (Point 5), and our implementation of data collection standards (Point 1).

Responsible Official: Lauren Imgrund, Associate Director, Partnerships & Civic Engagement

Target Date: December 31, 2024

# Attachment 3: Status of Recommendations

Recommendation	Status	Action Required
<p><b>2022-ER-017-01</b> We recommend that the National Park Service (NPS), pursuant to the requirements set forth in DOI’s Justice40 implementation guidance, complete and submit required Justice40 documents, including a methodology for calculating program benefits accruing to disadvantaged communities and a stakeholder engagement plan, to ensure compliance with Office of Management and Budget Memorandum M-21-28.</p>		
<p><b>2022-ER-017-02</b> We recommend that NPS develop guidance for NPS staff reviewing Open Project Selection Process documents to ensure compliance with the existing DOI Justice40 requirements.</p>		
<p><b>2022-ER-017-03</b> We recommend that NPS review current and new Open Project Selection Process documents to ensure compliance with DOI Justice40 requirements.</p>	<b>Resolved</b>	We will track implementation.
<p><b>2022-ER-017-04</b> We recommend that NPS update the Land and Water Conservation Fund Manual to incorporate the use of environmental justice tools into State grant decision making.</p>		
<p><b>2022-ER-017-05</b> We recommend that NPS identify the data needed to demonstrate successful implementation of DOI’s <i>Equity Action Plan</i> specific to the State Side program and update its implementation plan accordingly.</p>		
<p><b>2022-ER-017-06</b> We recommend that NPS finalize its implementation plan and develop a process to track progress made in meeting the priority actions set forth in DOI’s <i>Equity Action Plan</i> related to the State Side program.</p>		



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