



# FY '11 Clean Water Fund Competitive Grants Policy

---

## **Purpose**

The Clean Water Fund was established to implement part of Article XI, Section 15, of the Minnesota Constitution, with the purpose of protecting, enhancing, and restoring water quality in lakes, rivers, and streams in addition to protecting groundwater and drinking water sources from degradation. The purpose of this policy is to provide clear expectations for implementation of funds appropriated to BWSR associated with Clean Water Fund (CWF) grants. The appropriation language governing the use of these funds can be found in MN Session Laws 2009, Chapter 172 and MN Session Laws 2010, Chapter 361.

BWSR will use grant agreements as contracts for assurance of deliverables and compliance with appropriate statutes, rules and established policies. Willful or negligent disregard of relevant statutes, rules and policies may lead to imposition of financial penalties on the grant recipient.

## **1.0 Applicant Eligibility Criteria and Requirements**

Local government units (LGUs) are eligible to receive grant funds if they are working under a current state approved and adopted local water management plan<sup>1</sup>. All activities must be consistent with an approved TMDL implementation plan or current watershed management plan, county comprehensive local water management plan, metropolitan local water plan, metropolitan groundwater plan, surface water intake plan or well head protection plan that has been state approved and locally adopted by November 1, 2010. The 2011 Clean Water Fund Request for Proposals will identify more specific requirements or eligibility restrictions when specified by statute or appropriation language.

## **2.0 Match Requirements**

A local match equal to at least 25% of the amount of Clean Water Funds requested and/or received is required. Matching cash or in-kind cash value provided by the landowner, land occupier, local government or other local source may be used to match CWF grants.

## **3.0 Eligible Activities**

The primary purpose of activities funded with grants associated with the Clean Water Fund is the control, reduction or prevention of chemical or nutrient runoff, soil erosion, sedimentation, runoff volume or materials that affect human or aquatic system health. Eligible activities can consist of structural practices, non-structural practices and measures, project support activities, and grant administration and reporting requirements. Technical and engineering assistance components necessary to implement these activities are considered essential and are to be included in the total project or practice cost.

---

<sup>1</sup> For the purposes of this policy watershed management organizations and metro watershed districts are not eligible if the management plan is more than 10 years beyond the BWSR plan approval date unless the plan states a lesser period of time; non-metro state watershed districts are not eligible if the plan is more than 11 years 3 months beyond the BWSR approval date; and counties are not eligible if the management plan is more than 10 years beyond the BWSR approval date unless properly extended.

### **3.1 Structural Practices and Projects:**

#### **Best Management Practices**

- a) Must be designed and maintained for a minimum effective life of ten years,
- b) Operation and maintenance for the life of the practice shall be included with the design standards,
- c) An inspection schedule and procedure shall be included as a component of maintaining the effectiveness of the practice, and
- d) The local unit of government must provide assurances that the landowner or land occupier will keep the project in place for the expected lifespan of the project. Such assurances may include easements, enforceable contracts, and termination or performance penalties. BWSR may allow replacement of a practice that does not comply with expected lifespan requirements with a practice that provides equivalent water quality benefits.

#### **Capital Improvement Projects**

- a) Must be designed and maintained for a minimum effective life of 25 years,
- b) Operation and maintenance for the life of the project shall be included with the design standards,
- c) An inspection schedule and procedure shall be included as a component of maintaining the effectiveness of the project, and
- d) The local unit of government must provide assurances that the landowner or land occupier will keep the project in place for the expected lifespan of the project. Such assurances may include easements, enforceable contracts, and termination or performance penalties. BWSR may allow replacement of a practice that does not comply with expected lifespan requirements with a practice that provides equivalent water quality benefits.

### **3.2 Non-Structural Practices And Measures**

Incentives may be used to encourage landowners to install or adopt land management practices that improve or protect water quality. Incentive payments and enhanced protection measures should be reasonable and justifiable, supported by LGU policy, consistent with prevailing local conditions, and must be accomplished using established standards.

### **3.3 Project Support Activities**

Civic engagement, public outreach, and other activities which directly support or supplement the goals and outcomes expected with the implementation of items identified in 3.1 and 3.2 above.

### **3.4 Grant Administration and Reporting**

All grant recipients are required to report on the outcomes, activities, and accomplishments of Clean Water Fund grants. Up to 5% of the grant funds may be used for local grant administration and reporting.

## **4.0 Ineligible activities**

Projects or practices that address the following will not be considered:

- a) Stormwater conveyances that collect and move runoff but do not provide water quality treatment;
- b) Municipal wastewater treatment or drinking water supply facilities;
- c) Meeting or implementing existing official controls that control the physical development of the whole or part of a local government unit; and
- d) That have the primary purpose of water quality monitoring or assessment.

## **5.0 Structural Practice and Project Requirements**

In order to insure long-term public benefit of structural practices and projects, the following requirements must be met by all grant recipients.

### **5.1 Technical and Engineering Components**

Technical and/or engineering expertise is required to develop, install and inspect projects. Grant recipients will be required to submit documentation in their workplan outlining:

- a) Who will provide technical assistance for each of the practices or projects to be implemented, their credentials for providing this assistance, or the method for selecting appropriate technical providers, and
- b) Approved design, construction, operation and maintenance standards for the practices or projects to be implemented.

BWSR reserves the right to review the qualifications of all persons providing technical assistance.

### **5.2 Practice or Project Construction and Sign-Off**

The LGU shall verify that the practice or project was properly installed and completed according to the plans and specifications, including technically approved modifications, prior to authorization for payment by the LGU.

### **5.3 Post Construction and Follow Up Activities**

To ensure that a practice or project is functioning properly, an operation and maintenance plan tailored to fit the site shall be developed. The operation and maintenance plan should identify all of the maintenance activities that are needed and specify how they will be accomplished. The plan shall be reviewed with the land owner or occupier before installation of the practices or projects.

LGUs shall assure that the operation and maintenance plan is being followed and that the practices or projects are functioning as designed by conducting periodic site inspections.

## **6.0 Grantee Administration of Clean Water Fund Grants**

LGUs have the responsibility to approve expenditure of funds within their organization. The LGU administering the grant must approve or deny expenditure of funds. The action taken must be documented in the LGU board's meeting minutes.

All LGU expenditure of funds providing financial assistance to landowners requires a contract with the landowner. The contract must adequately address all the lifespan and operation and maintenance requirements of the practice or project as provided by this policy. The contract must specify what LGU enforcement

provisions are, up to and including repayment of cost share funds at a rate up to 150% of the original landowner agreement. BWSR recommends all contracts be reviewed by the LGUs legal counsel.

Grant reporting, fiscal management, and administration requirements are the responsibility of the grant recipient.

## **7.0 BWSR Grant Closeout and Reporting Requirements**

BWSR staff is authorized to develop grant agreements, including requirements and processes for fiscal closeouts, and project outcomes reporting.

### **7.1 BWSR Grant Closeout Procedures**

- a)** BWSR staff will review grant recipient compliance with contractual requirements in a manner which is consistent with the policies established by the Office of Grants Management and adopted by the BWSR Board.
- b)** Elements described in the project workplan will be reviewed in the grant close-out.
- c)** Project files for CWF expenditures including landowner contact information, contracts, bills and invoices, inspection schedule, structural practice and project operation and maintenance information, design plans, and miscellaneous communication must be retained by the LGU pursuant to MS 138.17 and consistent with ongoing record retention schedules.
- d)** In the event there is a contract violation, BWSR will enforce the grant agreement including repayment of grant funds at a rate up to 150% of the grant agreement.