



Soil Erosion and Drainage Law Compliance Program



Request for Proposal

October 28, 2013

About the program

The 2013 Minnesota Legislature appropriated Clean Water Funds to the Board of Water and Soil Resources (BWSR) to be used *for grants to local units of government to ensure compliance with Minnesota Statutes Chapter 103E (Drainage Law) and Sections 103F.401 to 103F.455 (state Soil Erosion Control provisions), including enforcement efforts.* In response to this appropriation, BWSR created the **Soil Erosion and Drainage Law Compliance Program**. The purpose of these grants is to restore and protect surface water quality, particularly Impaired Waters, and to supplement local efforts to sustain clean water in Minnesota, by applying existing soil erosion reduction and drainage ditch statutes.

Type of Program

Competitive

Clean Water Funding Available

\$1,355,000

General Requirements

- The proposal should demonstrate significant, measurable project outputs that will help achieve water quality objectives. Proposals should include outputs such as location of riparian buffers needed or required along Chapter 103E drainage ditches that are public waters, prioritized inventories of Chapter 103E drainage ditch incremental buffer strip and side inlet control needs, spot checks for soil loss ordinance and/or highly erodible land plan compliance, soil loss ordinance written and adopted, and /or drainage system inspection plan and database developed.
- The primary purpose of activities funded with grants associated with the Clean Water Fund is to restore, protect, and enhance water quality. Eligible activities must be consistent with a watershed management plan that has been state approved and locally adopted or an approved total maximum daily load study (TMDL), Watershed Restoration and Protection Strategy document, surface water intake plan, or well head protection plan. Local governments may use a connection derived from an eligible plan of another local government. BWSR may request documentation outlining the cooperation between the local government submitting the grant application and the local government that has adopted the plan.
- Depending on the Subprogram of eligible activities proposed, either a 25% or 50% non-state match is required. NOTE: Subprogram applications must be submitted separately in eLINK.

Applicant Eligibility

Eligible applicants include Chapter 103E County and Watershed District Drainage Authorities, Counties, and Soil and Water Conservation Districts working in partnership with one or more eligible Counties or Watershed Districts.

Eligible Activities and Local Match Requirements

Subprogram 1 – Soil Erosion

Eligible Activity		Description	Match Required
1a.	Compliance checks and enforcement of an existing County soil loss ordinance.	Check for average annual cropland soil loss less than the maximum allowed by County ordinance to augment implementation of an existing county soil loss ordinance.	25%
1b.	Compliance checks of USDA Highly Erodible Land (HEL) Plans and identification of corrective actions needed.	Compliance spot checks for existing USDA Highly Erodible Land (HEL) plans. A proposal to conduct this activity will require clear definition of partnering with NRCS and FSA.	
1c.	Development and adoption of County soil loss ordinance.	Planning and technical assistance for adoption of a county soil loss ordinance. This activity must result in the adoption of a county soil loss ordinance within the grant period.	

Subprogram 2 – Drainage Ditch Inventory and Inspection

Eligible Activity		Description	Match Required
2a.	Inventory Chapter 103E drainage ditches <u>that are Public Waters</u> .	Determine the status of compliance with the Section 103E.021 buffer strip requirement and the 50-ft. Shoreland Buffer Rule 6120.3300, Subpart 7 requirement <u>for all drainage ditches in the drainage authority's jurisdiction that are Public Waters</u> . Develop a plan to enforce the applicable requirements.	25%
2b.	Inventory Chapter 103E drainage ditches where erosion, sediment and/or nutrients contribute substantially to water quality degradation, and prioritize sites for side inlet control and/or buffer strip implementation.	Inventory drainage ditch systems and identify priority side inlet control and buffer strip needs for which the following authorities apply (<u>grant funding for inventory(ies) only, not for practice establishment</u>): a. Section 103E.021, Subd. 6 Incremental Implementation of Vegetated Ditch Buffer Strips and Side Inlet Controls; and b. Section 103E.011, Subd. 5 Use of External Sources of Funding.	
2c.	Inventory Chapter 103E drainage systems where erosion, sediment and/or nutrients contribute substantially to water quality degradation, and prioritize sites for storage and treatment implementation.	Inventory drainage systems and identify priority wetland restoration or other drainage water storage and treatment opportunities within the watershed of the drainage system for which either of the following provisions apply (<u>grant funding for inventory(ies) only, not for practice establishment</u>): a. Section 103E.701 Repairs, Subd. 6. Wetland Restoration and Replacements ; Water Quality Protection and Improvement; and b. Section 103E.011, Subd. 5 Use of External Sources of Funding.	

2d.	<p>Develop an <u>inspection plan</u> and <u>database</u> for all Chapter 103E drainage ditch systems under the drainage authority’s jurisdiction to enhance drainage ditch inspection. <u>(Does not include funding for drainage records scanning or data creation, nor for a drainage inspector.)</u></p>	<p>Facilitate compliance with the following provisions:</p> <ul style="list-style-type: none"> a. Section 103E.705 Repair Procedure, Subd. 1 Inspection, which requires inspection at a minimum every 5 years, and annually if there is a violation of Section 103E.021 until the violation is resolved. b. Section 103E.705 Repair Procedure, Subd. 2 Permanent Strip of Perennial Vegetation Inspection and Compliance Notice, which requires the drainage authority to inspect applicable drainage ditches for violations of Section 103E.021. c. Section 103E.067 Ditch Buffer Strip Annual Reporting, which is due from drainage authorities to BWSR by February 1 for data from the previous calendar year. 	
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Subprogram 3 – Redetermination of Benefits and Drainage Ditch Buffer Strips

	Eligible Activity	Description	Match Required
3a.	<p>Redetermine benefits and damages on Chapter 103E drainage ditch(es) and establish buffer strips <u>for ditch systems with more than 80% of the drainage area within the current benefited lands of the ditch system, where an improvement project has not been petitioned, and where there are Impaired Waters and/or excess sediment accumulations. (Does not include funding for buffer strip right-of-way and establishment.)</u></p>	<p>Redetermination of benefits and damages for Chapter 103E drainage ditch(es) not already having Section 103E.021 buffer strips, and associated establishment of ditch buffer strips in accordance with the following provisions:</p> <ul style="list-style-type: none"> a. Section 103E.351 Redetermination of Benefits and Damages; b. Section 103E.021 Ditches Must Be Planted with Perennial Vegetation. <p>This activity must result in the redetermination being accomplished within the grant period.</p>	50%

Ranking Criteria

Subprogram 1 - Soil Erosion	
Ranking Criteria	Maximum Points Possible
1) Anticipated water quality benefits relative to cost.	30
2) Relationship to a Plan: The proposal is clearly based on priority protection or restoration actions listed in, or derived from, an eligible water management plan.	15
3) % of LGU lands impacted by the eligible activity based on an accepted definition of high priority areas (e.g. map of highly erodible lands, definition of erosion problem areas via a TMDL, WRAPS, or other study) (i.e. total priority erosion area lands within the jurisdiction and % to be addressed by the activity)	20
4) LGU capacity to implement the local grant program processes and protocols.	10
5) Consistency with program purposes.	25
Total Points Available	100

Subprogram 2 – Drainage Ditch Inventory and Inspection	
Ranking Criteria	Maximum Points Possible
1) Anticipated water quality benefits relative to cost.	30
2) Relationship to a Plan: The proposal is clearly based on priority protection or restoration actions listed in, or derived from, an eligible water management plan.	15
3) Total miles of Chapter 103E drainage ditches under the drainage authority's jurisdiction that are public waters (Activity 2a.); miles of Chapter 103E drainage ditches to be inventoried that contribute substantially to water quality degradation (Activities 2b. or 2c.); or total miles of Chapter 103E drainage ditches under the drainage authority's jurisdiction (Activity 2d.).	15
4) LGU capacity to implement the local grant program processes and protocols.	10
5) Consistency with program purposes.	30
Total Points Available	100

Subprogram 3 – Redetermination of Benefits and Drainage Ditch Buffer Strips	
Ranking Criteria	Maximum Points Possible
1) Anticipated water quality benefits relative to cost.	40
2) Relationship to a Plan: The proposal is clearly based on priority protection or restoration actions listed in, or derived from, an eligible water management plan.	20
3) Total miles of Chapter 103E buffer strips to be established for proposed eligible drainage ditches.	20
4) Consistency with program purposes.	20
Total Points Available	100

Initial screening will be accomplished by BWSR Board Conservationists and Clean Water Specialists. Final proposal ranking will be by BWSR drainage and soils staff. Final award decisions will be made by the BWSR Board.

BWSR Grant Administration

The BWSR reserves the right to partially fund any and all grant proposals based on the number of eligible proposals submitted and the amount of funding available.

Application Deadline and Timeline

Late submissions or incomplete applications will not be considered for funding.

- October 28, 2013 Application period begins
- December 13, 2013 Application deadline at 4:30 PM*
- January 22, 2014 BWSR Board authorizes grant awards (proposed)
- February 2014 BWSR grant agreements sent to recipients
- March 17, 2014 Work plan submittal deadline
- April 1, 2014 Grant execution deadline

*The application must be submitted by 4:30 PM.

Project Period

The project period starts when the grant agreement is executed, meaning all required signatures have been obtained. Work that occurs before this date is not eligible for reimbursement with grant funds and cannot be used as match. All grants must be completed by December 31, 2016.

Payment Schedule

Grant payments will be distributed in three installments to the grantee. The first payment of 50% of the grant amount will be paid after execution of the grant agreement and work plan approval provided the grant applicant is in compliance with all BWSR website and eLINK reporting requirements for previously awarded BWSR grants. The second payment of 40% of the grant amount will be paid once the grantee has provided BWSR with notification and BWSR has reconciled expenditures of the initial payment. The last 10% will be paid after all final reporting requirements are met, the grantee has provided BWSR with a final financial report, and BWSR has reconciled these expenditures.

Incomplete Applications and Partial Funding

Applications that do not comply with all application requirements will not be considered for funding, as provided below.

- Components of the application are incomplete or missing;
- Any required documentation is missing; and
- The match amount does not meet grant requirements

Applications may receive partial funding for the following reasons:

- An absence of clear definition of specific use of grant funds;
- Activities that were not discussed in the application or have no connection to the central purpose of the application were included by an applicant; and
- Concerns about unreasonable requests for technical assistance and administration funding.

CWF Project Reporting Requirements

- All grant recipients are required to report on the outcomes, activities, and accomplishments of Clean Water Fund grants. All BWSR funded projects will be required to develop a work plan, including detail relating to the outcome(s) of the proposed project. All activities will be reported via the eLINK reporting system. For more information go to <http://www.bwsr.state.mn.us/outreach/eLINK/index.html>.
- BWSR Clean Water Funds will be administered via a standard grant agreement. 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.
- When practicable, grant recipients shall prominently display on their website the legacy logo. Grant recipients must display on their website either a link to their project from the Legislative Coordinating Commission Legacy Site (<http://legacy.leg.mn>) or a clean water project summary that includes a description of the grant activities, including expenditure of grant funds and measurable outcomes according to the format specified by the BWSR.

Grants and Public Information

Under Minnesota Statute 13.599, responses to an RFP are nonpublic until the application deadline is reached. At that time, the name and address of the grantee, and the amount requested becomes public. All other data is nonpublic until the negotiation of the grant agreement with the selected grantee is completed. After the application evaluation process is completed, all data (except trade secret data) becomes public. Data created during the evaluation process is nonpublic until the negotiation of the grant agreement with the selected grantee(s) is completed.

Prevailing Wage

It is the responsibility of the grant recipient or contractor to pay prevailing wages on construction projects to which state prevailing wage laws apply (Minn. Stat. 177.42 – 177.44). All laborers and mechanics employed by grant recipients and subcontractors funded in whole or in part with state funds included in this RFP shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality. Additional information on prevailing wage requirements is available on the Department of Labor and Industry (DOLI) website: <http://www.dli.mn.gov/LS/PrevWage.asp> . Questions about the application of prevailing wage rates should be directed to DOLI at 651-284-5091.

Conflict of Interest

State Grant Policy 08-01, (see http://www.admin.state.mn.us/ogm_policies_and_statute.html) Conflict of Interest for State Grant-Making, also applies to BWSR grantees. Grantees' conflicts of interest are generally considered organizational conflicts of interest. Organizational conflicts of interest occur when:

1. A grantee is unable or potentially unable to render impartial assistance or advice due to competing duties or loyalties,
2. A grantee's objectivity in carrying out the grant is or might be otherwise impaired due to competing duties or loyalties, or
3. A grantee or potential grantee has an unfair competitive advantage through being furnished unauthorized proprietary information or source selection information that is not available to all competitors.

Minimum Browser Requirements for eLINK

The applicant must use Microsoft (MS) Internet Explorer 9 or Mozilla Firefox to enter elink data for applications and works plans.

Proposal Questions

This RFP and the 2014 Clean Water Fund Competitive Grants Policy adopted by the BWSR provide the framework for funding and administration of the 2014 Clean Water Fund Competitive Grant Programs can be found on the BWSR website (www.bwsr.state.mn.us/grants/apply/index.html).

Questions regarding grant applications should be directed to your area Board Conservationist or Clean Water Specialist; a map of work areas and contact information is available at (www.bwsr.state.mn.us/contact/BC_areas.pdf).