



FY 2017 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, and M.S. 114D with the purpose of protecting, enhancing, and restoring water quality in lakes, rivers, and streams and to protect groundwater and drinking water sources from degradation. The purpose of this policy is to provide expectations for implementation activities conducted via the Board of Water and Soil Resources (BWSR) Clean Water Fund (CWF) grants.

BWSR will use grant agreements 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 or future sanctions on the grant recipient.

The FY 2017 Clean Water Fund Competitive Grants Request for Proposal (RFP) may identify more specific requirements or criteria when specified by statute, rule or appropriation language.

1.0 Applicant Eligibility Requirements

Eligible applicants include local governments (counties, watershed districts, watershed management organizations, soil and water conservation districts, and cities) or local government joint power boards working under a current State approved and locally adopted local water management plan or soil and water conservation district (SWCD) comprehensive plan. Counties in the seven-county metropolitan area are eligible if they have adopted a county groundwater plan or county comprehensive plan that has been approved by the Metropolitan Council under Minn. Stat. Chapter 473. Cities in the seven-county metropolitan area are eligible if they have a water plan that has been approved by a watershed district or a watershed management organization as provided under Minn. Stat. 103B.235. Cities, including those outside of the seven-county metropolitan area, without such plans are encouraged to work with another eligible local government if interested in receiving grant funds. Plans must be current when Board approves award to be eligible to receive grant funds.¹ Applicants must also be in compliance with all applicable federal, State, and local laws, policies, ordinances, rules, and regulations.

¹ For the purposes of this policy, watershed management organizations and metro watershed districts plans are not current 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 watershed district plans are not current if the plan is more than 11 years 3 months beyond the BWSR approval date; and county water plans are not current if the plan is more than 10 years beyond the BWSR approval date unless properly extended.

2.0 Match Requirements

A non-State match equal to at least 25% of the amount of Clean Water Funds requested and/or received is required, unless specified otherwise by Board action and included in the RFP. Match can be provided by a landowner, land occupier, local government or other non-State source and can be in the form of cash or the cash value of services or materials contributed to the accomplishment of grant objectives.

3.0 Eligible Activities

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 comprehensive watershed management plan, county comprehensive local water management plan, soil and water conservation district comprehensive plan, metropolitan local water plan or metropolitan groundwater plan that has been State approved and locally adopted or an approved total maximum daily load study (TMDL), watershed restoration and protection strategy (WRAPs) document, surface water intake plan, or well head protection plan. Local governments may include programs and projects in their grant application that are 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.

Eligible activities can consist of structural practices and projects; non-structural practices, and measures, project support, and grant management and reporting. Technical and engineering assistance necessary to implement these activities are considered essential and are to be included in the total project or practice cost.

3.1 Structural Practices and Projects:

Where questions arise under Section 3.1, the effective lifespan of structural practices and projects shall be defined by current and acceptable design standards or criteria. Examples of design standards and criteria include, but are not limited to, the USDA Field Office Technical Guide or the Minnesota Stormwater Manual.

3.1.1 Best Management Practices

- a. Practices must be designed and maintained for a minimum effective life of ten years.
- b. An operation and maintenance plan for the life of the practice shall be included with the design standards.
- c. An inspection schedule, procedure, and assured access to the practice site shall be included as a component of maintaining the effectiveness of the practice.

- d. The grant recipient must provide assurances that the landowner or land occupier will keep the practice in place for its intended use for the expected lifespan of the practice. Such assurances may include easements, deed recordings, enforceable contracts, performance bonds, letters of credit, and termination or performance penalties. BWSR may allow replacement of a practice or project that does not comply with expected lifespan requirements with a practice or project that provides equivalent water quality benefits.

3.1.2 Capital Improvement Projects

- a. Projects must be designed and maintained for a minimum effective life of 25 years.
- b. An operation and maintenance plan for the life of the project shall be included with the design standards.
- c. An inspection schedule, procedure, and assured access to the project site for maintenance shall be included as a component of maintaining the effectiveness of the project.
- d. The grant recipient must provide assurances that the landowner or land occupier will keep the project in place for its intended use for the expected lifespan of the project. Such assurances may include easements, deed recordings, enforceable contracts, performance bonds, letters of credit and termination or performance penalties. BWSR may allow replacement of a practice or project that does not comply with expected lifespan requirements with a practice or project that provides equivalent water quality benefits.

3.1.3 Livestock Waste Management Practices

- a. The application of conservation practice components to improve water quality associated with livestock management systems that were constructed before **October 23, 2000** are eligible for funding.
- b. Eligible practices and project components must meet all applicable local, State, and federal standards and permitting requirements. Funded projects must be in compliance with standards in MN Rule Chapter 7020 upon completion.
- c. Eligible practices are limited to best management practices listed by the MN USDA-NRCS.
http://www.nrcs.usda.gov/wps/portal/nrcs/detail/mn/programs/financial/eqip/?cid=nrcs142p2_023513
- d. Funding is limited to livestock operations that are not classified as a Concentrated Animal Feeding Operation (CAFO) and have less than 500 animal units (AUs), in accordance with MN Rule Chapter 7020.
- e. Only livestock operations registered with the Minnesota Pollution Control Agency in the Delta Database or its equivalent are eligible for funding.

- f. BWSR reserves the right to deny, postpone or cancel funding where financial penalties related to livestock waste management violations have been imposed on the operator.
- g. Feedlot Roof Structure is an eligible practice with the following condition:
 - 1) Payment Limitation: The maximum grant for a feedlot roof structure is not to exceed \$100,000. Funding is not eligible for projects already receiving flat rate payment equaling or exceeding this amount from the NRCS or other State grant funds.
- h. Feedlot relocation is an eligible practice, with the following conditions:
 - 1) The existing eligible feedlot must be permanently closed in accordance with the local and State requirements,
 - 2) Payment Limitation: The maximum grant for a feedlot relocation is not to exceed \$100,000. Funding is not eligible for projects already receiving flat rate payment equaling or exceeding this amount from the NRCS or other State grant funds.

3.1.4 Subsurface Sewage Treatment Systems

- a. Only identified imminent threat to public health systems (ITPHS) are eligible for grants funds, except as provided under b.
- b. Proposed community wastewater treatment systems involving multiple landowners are eligible for funding, but must be listed on the MPCA's Project Priority List (PPL) and have a Community Assessment Report (CAR) or facilities plan [Minn. Rule 7077.0272] developed prior to the application deadline. For community wastewater system applications that include ITPHS, systems that fail to protect groundwater are also eligible.
- c. In an unsewered area that is connecting into a sewer line to a municipal waste water treatment plant (WWTP), the costs associated with connecting the home to the sewer line is eligible for funding if the criteria in a. and b. above are met.

3.2 Non-Structural Practices And Measures

- 3.2.1** Non-structural practices and activities that complement, supplement, or exceed current minimum State standards or procedures for protection, enhancement, and restoration of water quality in lakes, rivers, and streams or that protect groundwater from degradation are eligible.
- 3.2.2** 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 grant recipient policy, consistent with prevailing local conditions, and must be accomplished using established standards.

All incentivized practices or procedures must have a minimum duration of at least 3 years with a goal of ongoing landowner adoption.

3.2.3 Minimum Buffer Width Requirements: Minimum buffer widths must, at a minimum, follow applicable statutes, rules, or local official controls for the water of concern.

3.2.4 Non-structural vegetative practices must follow the Native Vegetation Establishment and Enhancement Guidelines found at http://www.bwsr.state.mn.us/native_vegetation/seeding_guidelines.pdf.

3.3 Project Support

Eligible activities include community engagement, outreach, equipment 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.

3.3.1 Capital Equipment Purchases: Refer to the guidance within the Grants Administration Manual.

3.4 Grant Management and Reporting

3.4.1 All grant recipients are required to report on the outcomes, activities, and accomplishments of Clean Water Fund grants. The grant funds may be used for local grant management and reporting that are directly related to and necessary for implementing the project or activity.

3.4.2 Applicants, who have previously received a grant from BWSR, must be in compliance with BWSR requirements for grantee website and eLINK reporting before grant execution and payment.

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. Routine maintenance activities within the effective life of existing practices or projects;
- d. General maintenance and repair of capital equipment;
- e. Activities having the primary purpose of water quality monitoring or assessment; unless specifically allowed;
- f. Livestock Waste Management Practices: Practices and activities that are not listed in the USDA NRCS-EQIP docket or are not included in the USDA NRCS eFOTG;
- g. Subsurface Sewage Treatment Systems (SSTS):
 - 1) Small community wastewater treatment systems serving over 10,000 gallons per day with a soil treatment system, and
 - 2) A small community wastewater treatment system that discharges treated sewage effluent directly to surface waters without land treatment.

5.0 Structural Practice and Project Requirements

In order to ensure 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 information in their work plan outlining:

- a. Who will provide technical and engineering assistance for each of the practices or projects to be implemented, their required 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 and review the technical project design if a recognized standard is not available.

5.2 Practice or Project Construction and Sign-Off

Grant recipients 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.

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.

The grant recipient 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

Grant recipients have the responsibility to approve the expenditure of funds within their organization. The LGU administering the grant must approve or deny expenditure of funds and the action taken must be documented in the governing body's meeting minutes prior to beginning the funded activity.

All grant recipient expenditure of funds providing financial assistance to landowners requires a contract with the landowner or land occupier. The contract must adequately address all the lifespan and operation and maintenance requirements of the practice or project as provided by this policy, including access for inspections and/or operation and maintenance. The contract must specify enforcement provisions, up to and including repayment of funds at a rate up to 150% of the original agreement amount. Funds received from a landowner who has taken out or failed to maintain a practice must be used according to this policy, less the administration cost.

BWSR recommends all contracts be reviewed by the grant recipient's legal counsel.

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

7.0 BWSR Grant Reporting, Reconciliation, and Verification Requirements

BWSR staff is authorized to develop grant agreements, including requirements and processes for project outcomes reporting, closeouts, fiscal reconciliations, and grant verifications. All grantees must follow the Grants Administration Manual policy and guidance.

In the event there is a violation of the terms of the grant agreement, BWSR will enforce the grant agreement and evaluate appropriate actions, up to and including repayment of grant funds at a rate up to 150% of the grant agreement.