



FY 2013 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 and to protect groundwater and drinking water sources from degradation. The purpose of this policy is to provide expectations for implementation activities conducted via 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.

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 as of October 1st, 2012 for an applicant to be eligible to apply.¹

¹ 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 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.

The FY 2013 Clean Water Fund Competitive Grants Request for Proposals (RPF) may identify more specific requirements or eligibility criteria when specified by statute, rule or appropriation language. To be eligible, applicants must be in compliance with all applicable federal, state, and local laws, policies, ordinances, rules, and regulations.

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, except for Clean Water Assistance Grants: Subsurface Treatment Systems Abatement Grants, where the match is 5%. Matching cash or in-kind cash value provided by a landowner, land occupier, local government or other non-state 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, or materials that affect human or aquatic system health. Eligible activities must be consistent with a 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), 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 activities, 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:

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 when the project is complete.
- c. Eligible practices are limited to best management practices listed by the MN USDA-NRCS.
(<http://efotg.sc.egov.usda.gov/references/public/MN/2011EQIPpayschedMAR9.pdf>).
- d. Relevant technical and/or engineering expertise is required to develop, install, and inspect livestock waste management projects
- e. Funding is limited to feedlots 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.

- 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) Flat rate payment: The maximum grant for a feedlot roof structure is \$150 per registered animal unit (NRCS EQIP Rate) or \$100,000, whichever is the lesser amount. 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 and, thereafter, is no longer eligible for Clean Water Funding. Closure activities at the existing feedlot include fence removal, waste storage facility closure and seeding, but funding is not authorized for removal or land application of manure from an open lot or waste storage facility.
 - 2) The relocated feedlot must be in compliance with all environmental requirements.
 - 3) Maximum grant for feedlot relocation is \$1,000 per registered animal unit, or \$100,000, whichever is the lesser amount.
 - 4) The existing and relocated livestock waste management systems sites are considered one project for grant funding.
- i. An alternatives analysis prepared by a technical provider, which documents the most practicable and feasible alternative, is required to be submitted with the grant application to BWSR for the following:
 - 1) Livestock management systems proposing the construction of roof structures under section 3.1.3(f),
 - 2) Projects proposing a feedlot relocation under section 3.1.3(g), and
 - 3) Any livestock management system that results in \$100,000 or more in State Clean Water Funds being directed to an individual livestock waste management project.

3.1.4 Subsurface Sewage Treatment Systems

- a. Only identified imminent threat to public health systems (ITPHS) are eligible for grants funds, except for community wastewater treatment systems involving multiple landowners, where systems that fail to protect groundwater are eligible when the application also includes ITPHs.
- b. All applicants must document adoption of local low income criteria and thresholds for individual landowners receiving Clean Water Funds.
- c. 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.

- d. 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 state standards 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 incentives must have a minimum duration of at least 3 years with a goal of ongoing landowner adoption.

3.3 Project Support Activities

Community engagement, 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 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. Enforcing existing state minimum standards;
- d. Routine maintenance activities within the effective life of existing practices or projects;
- e. Activities having the primary purpose of water quality monitoring or assessment.
- f. Livestock Waste Management Systems activities:
 - 1) That provide partial compliance with standards when the project is completed;
 - 2) Buildings;
 - 3) Feed storage facilities;
 - 4) Feeding facilities and equipment;
 - 5) Manure application equipment;
 - 6) Barn cleaners and flush systems;
 - 7) Building foundation costs not associated with a manure storage facility; and
 - 8) Animal buyouts.
- g. Subsurface Sewage Treatment Systems (SSTS) activities:
 - 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 documentation in their work plan 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

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.

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. The contract must specify enforcement provisions, up to and including repayment of funds at a rate up to 150% of the original agreement amount. 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.

7.1 BWSR Grant Reconciliation and Verification 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 work plan will be reviewed during grant reconciliation.
- 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 grant recipient pursuant to MS 138.17 and consistent with ongoing record retention schedules.
- d. In the event there is a violation of the terms of the grant agreement, BWSR will enforce the grant agreement and evaluate appropriate actions including repayment of grant funds at a rate up to 150% of the grant agreement.

For additional guidance, see the BWSR grants manual at:

<http://www.bwsr.state.mn.us/grants/manual/index.php#/Purpose%20&%20Scope/7/top>