



2020 LGRWRP Direct Credit Purchase Request for Proposal

What is it?

The Minnesota Board of Water and Soil Resources (BWSR), acting on behalf of the Minnesota Department of Transportation (MnDOT) has funds available to purchase wetland replacement credits from established wetland banks to offset wetland impacts resulting public road projects in Minnesota. BWSR is seeking to obtain wetland credits in the following bank service areas (BSAs):

Bank Service Area 2: Rainy River

Bank Service Area 4: Upper Red River of the North

Bank Service Area 5: Mississippi River Headwaters

Bank Service Area 7: Middle Mississippi River

Bank Service Area 9: Minnesota River

Proposals will be accepted for the following Circular 39 wetland credit types that have been approved by a local government unit under the Wetland Conservation Act (WCA) and by the U.S. Army Corps of Engineers under the Federal Clean Water Act: 2, 3, 6, 1, 7, and 4. The wetland credit types are listed in order of preference. BWSR is not seeking to purchase Circular 39 wetland types 5, 8, and credits designated as upland buffer under this request for proposal (RFP).

Who can participate?

All wetland bank account holders who currently have the wetland credit types sought under this RFP in their account may submit a response to this RFP. BWSR is specifically seeking to purchase credits that are approved under the Wetland Conservation Act and by the U.S. Army Corps of Engineers under the Clean Water Act Section 404 permitting program. Replacement credits that are currently in transfer accounts are not sought under this RFP. Similarly, replacement credits that are part of the Minnesota Agricultural Wetland Bank are not sought under this RFP unless the credits were reviewed and approved as a standard wetland bank and can be moved out of an agricultural wetland bank account back into a standard banking account.

How many credits will be purchased?

MnDOT has approximately \$2 million to acquire credits in state fiscal year 2020. BWSR may also seek to acquire credits for the Local Government Road Wetland Replacement Program (LGRWRP) if funding becomes available. Proposals received under this credit purchase RFP will be evaluated against other credit acquisition methods to identify the best value for the State based on the evaluation criteria identified in this RFP and the timing of need based on project schedules. Based on the availability of funds for the LGRWRP and MnDOT, it is possible that credit purchases may be done in two phases with an initial group of transactions completed in the second quarter of 2020 and a second group of transactions completed in the third quarter of 2020. To facilitate a phased approach, the application materials stipulate that per credit prices provided by the proposers remain valid for a period of 180 days from the closing date of this RFP.

Does project location matter?

Yes, BWSR is restricting proposals to the following BSAs: 2, 4, 5, 7, and 9 (see map below). This includes all or portions of the following counties: Aitkin, Anoka, Becker, Beltrami, Benton, Big Stone, Blue Earth, Brown, Carlton, Carver, Cass, Chippewa, Clay, Clearwater, Cook, Cottonwood, Crow Wing, Dakota, Douglas, Faribault, Freeborn, Grant, Hennepin, Hubbard, Isanti, Itasca, Jackson, Kanabec, Kandiyohi, Koochiching, Lac qui Parle, Lake, Lake of the Woods, Le Sueur, Lincoln, Lyon, Mahnomon, Martin, McLeod, Meeker, Mille Lacs, Morrison, Murray, Nicollet, Norman, Otter Tail, Pipestone, Pope, Ramsey, Redwood, Renville, Rice, Roseau, Scott, Sherburne, Sibley, St. Louis, Stearns, Steele, Stevens, Swift, Todd, Traverse, Wadena, Waseca, Washington, Watonwan, Wilkin, Wright, and Yellow Medicine. You can determine if a wetland bank is in one of these areas by using the “Wetland Banking Interactive Web Map” at <http://maps.bwsr.state.mn.us/banking/>.

How much will the State pay?

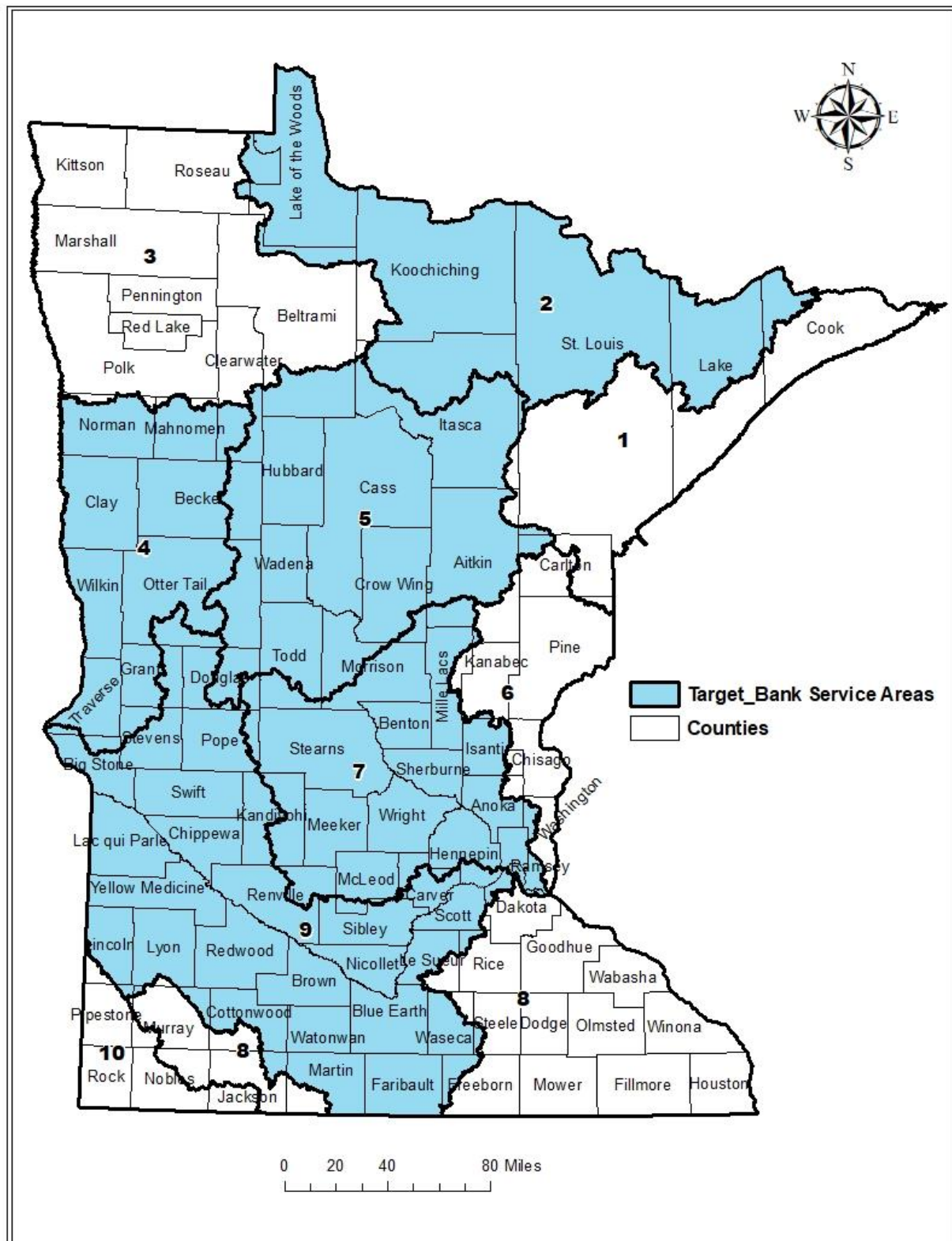
There is no set minimum or maximum amount that the State will pay for credits but credit price will be a factor in the selection process. Responses to the RFP must include a price per credit along with a quantity of credits offered. The State’s goal with this RFP is to maximize credit acquisition with available funds in order to meet the credit demand for MnDOT and, potentially, the LGRWRP. Respondents to the RFP will be asked to pay stewardship and withdrawal fees for the credits sold to the State and should include the fees in their proposals. Transfer fees will be the responsibility of the State and should not be included in the proposals.

What criteria will BWSR use to select projects?

BWSR will verify that all credits identified in proposals are both state and federally approved. Once confirmed, proposals received will be evaluated based on the following criteria:

- Bank service area (geographic location);
- Type of Credit (Wetland Plant Community Type)
- Price per credit;
- Amount of credits

Bank Service Areas Where the Board of Water and Soil Resources is Seeking to Purchase Replacement Credits



What are the obligations of the account holder if selected?

Account holders of selected proposals will be required to enter into a legal agreement with BWSR for the purchase of wetland banking credits. The account holder will be required to complete the following:

- Prepare and execute a purchase agreement with BWSR within 30 days of notification of selection and submit the agreement to BWSR (a sample agreement is provided in Attachment C);
- Pay withdrawal and stewardship fees associated with the sale of credits;
- Comply with the General Requirements section of this RFP;

How do I submit a proposal?

Respondents must submit the proposal form when responding to this RFP along with a completed **Affidavit of Noncollusion (Attachment A)** and **Certification Regarding Lobbying (Attachment B)**. Proposals submitted must be received by U.S. Mail or courier in the BWSR St. Paul Office no later than 2:30pm Central Time, May 21, 2020. Email and faxed proposals will not be considered.

When will decisions be made on selected proposals?

BWSR has set the following schedule as a goal for selecting proposals for the initial purchase of wetland bank credits. The number and scope of the submittals could affect the schedule.

- May 21, 2020 – end of application period
- July 26, 2020 – screening and evaluation of proposals complete
- August 27, 2020 – notification and initiation of the purchase agreement process for selected proposals

A decision regarding a supplemental purchase of credits will be made as soon as possible after the initial purchase. Proposals selected during the supplemental purchase will be notified within 180 days of the close of the application period.

Further Questions?

Contact BWSR Wetland Mitigation Coordinator Tim Smith at tim.j.smith@state.mn.us or (651) 600-7554.

General Requirements

Affidavit of Noncollusion

Each responder must complete the attached **Affidavit of Noncollusion** in **Attachment A** and include it with the response.

Conflicts of Interest

Responder must provide a list of all entities with which it has relationships that create, or appear to create, a conflict of interest with the work that is contemplated in this request for proposals. The list should indicate the name of the entity, the relationship, and a discussion of the conflict.

Proposal Contents

By submission of a proposal, Responder warrants that the information provided is true, correct and reliable for purposes of evaluation for potential contract award. The submission of inaccurate or misleading information may be grounds for disqualification from the award as well as subject the responder to suspension or debarment proceedings as well as other remedies available by law.

Disposition of Responses

All materials submitted in response to this RFP will become property of the State and will become public record in accordance with Minnesota Statutes, section 13.591, after the evaluation process is completed. Pursuant to the statute, completion of the evaluation process occurs when the government entity has completed negotiating the contract with the selected vendor. If the Responder submits information in response to this RFP that it believes to be trade secret materials, as defined by the Minnesota Government Data Practices Act, Minnesota Statute § 13.37, the Responder must:

- clearly mark all trade secret materials in its response at the time the response is submitted,
- include a statement with its response justifying the trade secret designation for each item, and;
- defend any action seeking release of the materials it believes to be trade secret, and indemnify and hold harmless the State, its agents and employees, from any judgments or damages awarded against the State in favor of the party requesting the materials, and any and all costs connected with that defense. This indemnification survives the State's award of a contract. In submitting a response to this RFP, the Responder agrees that this indemnification survives as long as the trade secret materials are in possession of the State.

The State will not consider the prices submitted by the Responder to be proprietary or trade secret materials.

Notwithstanding the above, if the State contracting party is part of the judicial branch, the release of data shall be in accordance with the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court as the same may be amended from time to time.

Contingency Fees Prohibited

Pursuant to Minnesota Statutes Section 10A.06, no person may act as or employ a lobbyist for compensation that is dependent upon the result or outcome of any legislation or administrative action.

Sample Agreement

You should be aware of the State's standard agreement in preparing your response. A **sample agreement** is attached for your reference (**Attachment C**). Much of the language reflected in the agreement is required. If you take exception to any of the terms, conditions or language in the contract, you must indicate those exceptions in your response to the RFP; certain exceptions may result in your proposal being disqualified from further review and evaluation. Only those exceptions indicated in your response to the RFP will be available for discussion or negotiation.

Organizational Conflicts of Interest

The Responder warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, there are no relevant facts or circumstances which could give rise to organizational conflicts of interest. An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons, a vendor is unable or potentially unable to render impartial assistance or advice to the State, or the vendor's objectivity in performing the contract work is or might be otherwise impaired, or the vendor has an unfair competitive advantage. The responder agrees that, if after award, an organizational conflict of interest is discovered, an immediate and full disclosure in writing must be made to the Assistant Director of the Department of Administration's Materials Management Division ("MMD") which must include a description of the action which the contractor has taken or proposes to take to avoid or mitigate such conflicts. If an organization conflict of interest is determined to exist, the State may, at its discretion, cancel the contract. In the event the responder was aware of an organizational conflict of interest prior to the award of the contract and did not disclose the conflict to MMD, the State may terminate the contract for default. The provisions of this clause must be included in all subcontracts for work to be performed similar to the service provided by the prime contractor, and the terms "contract," "contractor," and "contracting officer" modified appropriately to preserve the State's rights.

Certification Regarding Lobbying

Federal money will be used or may potentially be used to pay for all or part of the work under the contract, therefore the Proposer must complete the attached **Certification Regarding Lobbying** provided as **Attachment B** and submit it as part of its proposal.