



2021 Third Party Project Request for Proposal

What is it and how does it work?

Third party projects are agreements between a landowner and the State of Minnesota where the landowner accepts the responsibility for establishing a wetland mitigation bank and then sells credits to the State as they are deposited into their account. The credit price and the schedule for providing the credits are both contained in the agreement signed by the landowner and the State prior to a conservation easement over the site being acquired by the State.

Applications for Third Party projects require a landowner(s), or other entity in partnership with a landowner(s), to submit a proposal on a cost per credit basis. The cost per credit is determined by the landowner but represents the Board of Water and Soil Resources' (BWSR) payment for the conservation easement and the improvements to the property to generate wetland credits. Respondents considering this method should be aware of the following restrictions:

- a. The bank sponsor must have submitted a Wetland Bank Prospectus for the site and received a favorable response from the Wetland Conservation Act Local Government Unit (LGU) and the U.S. Army Corps of Engineers by the close of this RFP. A favorable response is one where the regulatory agency providing the review comments has determined that the site has the potential to generate wetland credits and/or a similar statement expressing support for the project to continue in the review process. Applications for sites that have not completed the Prospectus phase of the wetland bank review process will not be considered.
- b. The site cannot be protected by a perpetual conservation easement in favor of the State prior to execution of the agreement between the State and the landowner.
- c. Credits proposed to be sold to the State must be deposited in the State Wetland Bank and available for transfer to a BWSR account no later than January 31, 2024.
- d. Proposals must equal or exceed ten credits.

Who can participate?

Any person or entity with the land ownership rights or interests to complete or commit to a wetland restoration project may respond to this announcement. The landowner of a proposed project location is not required to be the applicant, but applicants will be asked to demonstrate that they have sufficient legal interest in the property, or access to it, in order to complete the activities necessary to restore wetlands and manage the site long-term.

How much will BWSR pay?

There is no set minimum or maximum amount that BWSR will pay under this method. However, applicants should be aware that this is a competitive selection process and that cost is one of six factors used in scoring each response. Proposals must include the cost information requested on the applicable form(s) and the required supporting information.

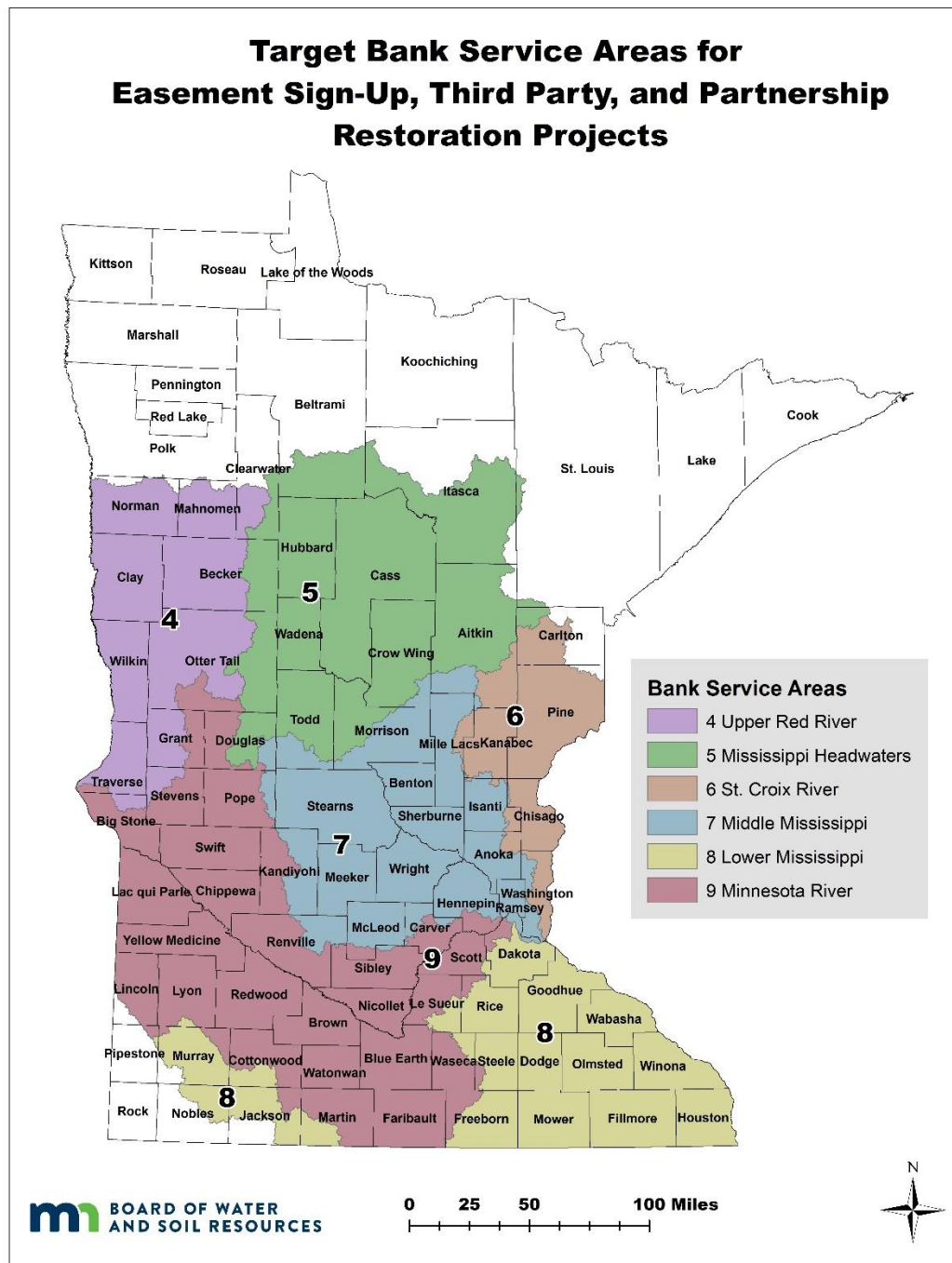
What criteria does BWSR use when evaluating projects?

Restoration projects will be evaluated using the following criteria. The percentage in parentheses is the contribution of the criterion towards the total score for the project:

1. Credit Yield (20%)
2. Technical Feasibility (20%)
3. Functional Benefit for the Watershed (10%)
4. Rare or Difficult to Replace Wetland Functions or Characteristics (10%)
5. Qualifications of the Applicant (10%)
6. Cost per Credit (30%)

Does the location of the site matter?

Yes, BWSR is restricting this solicitation to the following Wetland Bank Service Areas (BSAs) 4, 5, 6, 7, 8 and 9 (see figure below).



If my site is selected, what do I have to do?

BWSR will work with the applicant to draft an agreement that outlines the terms, conditions, and schedule for providing the credits. Once the agreement is signed by the State and the applicant the applicant is responsible for completing the restoration project and getting credits deposited in the State Wetland Bank in accordance with the schedule.

How do I apply?

Landowners or other entities interested can find application materials, including an applicant checklist, on the BWSR website at <https://bwsr.state.mn.us/local-government-road-wetland-replacement-program>. Specific questions about the submission requirements or the evaluation process should be directed to the BWSR staff identified below.

Responses to this RFP must be received by U.S. Mail or courier in the BWSR St. Paul Office (ATTN: 2021 DCP RFP, 520 Lafayette Road North, Saint Paul, MN 55155) no later than 2:30pm Central Time, April 7, 2021. Email and faxed proposals will not be considered.

How many sites will be selected for the program?

BWSR has approximately \$8.0 million dedicated for wetland credit development. Some or all of these funds may be used for third party projects. BWSR is also seeking applications for other project development options concurrent with this RFP and will make decisions between the options based on the selection criteria and the overall best value for the State. BWSR has a goal of pursuing at least one project in each BSA shown on Figure 1 with the funds available. However, it is not possible to know exactly how many sites and associated projects that will be selected because we cannot reasonably predict the size, scope, and cost of potential projects that may be identified. Based on previous easement sign-ups and requests for proposals we anticipate that between seven and fifteen projects may be selected.

What is the process for deciding which sites/projects to fund?

The steps in the review and selection process relevant to the landowner/applicant are provided below:

1. Applications due on or before 2:30 PM on April 7, 2021.
2. Initial screening, evaluation and agency coordination of application materials (April 7 to May 5, 2021).
3. Notifications of projects not technically feasible and not under further evaluation sent (May 12, 2021).
4. Sites selected and notification provided to landowners July 7, 2021.

Depending on characteristics of the site and weather conditions, a field inspection/investigation may take place during the review of submitted applications.

Landowners may continue to utilize their property (cropping, haying, etc.) during this period. BWSR only requests that applicants allow the agency reasonable access to the site.

If my site is selected, what do I have to do?

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Further Questions?

Questions can be directed to the following BWSR Wetland Banking Staff

BWSR Staff: Dennis Rodacker, Wetland Mitigation Project Manager, dennis.rodacker@state.mn.us or (651) 666-0913.

General Requirements

Affidavit of Noncollusion

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

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.

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.

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.

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.

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.

Responses are Nonpublic During Evaluation Process

All materials submitted in response to this RFP will become property of the State. During the evaluation process, all information concerning the responses submitted will remain provide or nonpublic and will not be disclosed to anyone whose official duties do not require such knowledge. Responses are private or nonpublic data until the completion of the evaluation process as defined by Minn. Stat. § 13.591. The completion of the evaluation process is defined as the State having completed negotiating a contract with the selected responder(s).

Trade Secret Information

- Responders must not submit as part of their response trade secret material, as defined by Minn. Stat. § 13.37.
- In the event trade secret data are submitted, Responder must defend any action seeking release of data it believes to be trade secret, and indemnify and hold harmless the State, its agents and employees, from any judgments awarded against the State in favor of the party requesting the data, and any and all costs connected with that defense.
- The State does not consider cost or prices to be trade secret material, as defined by [Minn. Stat. § 13.37](#).
- A responder may present and discuss trade secret information during an interview or demonstration with the State, if applicable.

Conditions of Offer

Unless otherwise approved in writing by the State, Responder's cost proposal and all terms offered in its response will remain firm for 180 days, until they are accepted or rejected by the State, or they are changed by further negotiations with the State prior to contract execution.

Award

Any award that may result from this solicitation will be based upon the total accumulated points as established in the solicitation. The State reserves the right to award this solicitation to a single Responder, or to multiple Responders, whichever is in the best interest of the State, providing each Responder is in compliance with all terms and conditions of the solicitation. The State reserves the right to accept all or part of an offer, to reject all offers, to cancel the solicitation, or to re-issue the solicitation, whichever is in the best interest of the State.

Requirements Prior to Contract Execution

Prior to contract execution, a responder receiving a contract award must comply with any submittal requests. A submittal request may include, but is not limited to, a Certificate of Insurance.