

## FY 2023 Clean Water Fund Competitive Grant Policy

*From the Board of Water and Soil Resources, State of Minnesota*

**Version:** FY2023  
**Effective Date:** 06/22/2022  
**Approval:** Board Order #22-31



### Policy Statement

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The Clean Water Fund was established to implement part of Article XI, Section 15, of the Minnesota Constitution, and Minnesota Statutes §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.

### Applicable Clean Water Fund Programs and Grants

- Projects and Practices including Drinking Water
- Multi-purpose Drainage Management
- Soil Health

### Reason for the policy

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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) competitive grant program.

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 2023 Clean Water Fund Competitive Grants Request for Proposal (RFP) may identify more specific requirements or criteria when specified by statute, rule or appropriation language. BWSR's Grants Administration Manual (<http://www.bwsr.state.mn.us/grants/manual/>) provides the primary framework for local management of all state grants administered by BWSR.

## Program Requirements

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### 1. Local Governmental Unit Eligibility Criteria

Eligible applicants for competitive grants include:

- Local governments (counties, watershed districts, watershed management organizations, and soil and water conservation districts) or local government joint power boards working under a current State approved and locally adopted local water management plan, comprehensive watershed management plan or soil and water conservation district (SWCD) comprehensive plan.
- Municipalities are eligible if they: 1) have a water plan that has been approved by a watershed district or a watershed management organization as provided under Minn. Stat. 103B.235; or 2) adopted an approved comprehensive watershed management plan developed under Minn. Stat. 103B.801.
- Counties in the seven-county metropolitan area are eligible if they have adopted a county groundwater plan under Minn Stat. 103B.255 or county comprehensive plan that has been approved by the Metropolitan Council under Minn. Stat. Chapter 473.

Applicable plans must be current when the Board approves awards to be eligible to receive grant funds as defined under the Board's *Local Water Plan Status and Grant Eligibility Policy*. Applicants must also be in compliance with all applicable federal, State, and local laws, policies, ordinances, rules, and regulations.

### 2. 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/or included in a Request for Proposals. Activities listed as ineligible under Section 4 (Ineligible Activities) may not be counted towards match. 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. Eligible Activities

The primary purpose of activities funded through this program is to restore, protect, and enhance water quality in lakes, rivers and streams; protect groundwater from degradation; and protect drinking water sources. 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, groundwater restoration and protection strategy (GRAPS) document, surface water intake plan, or wellhead 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, 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 **Effective Life.** All structural practices must be designed and maintained for a minimum effective life of ten years for best management practices and 25 years for capital improvement practices. The beginning date for a practice's effective life is the same date final payment is approved and the project is considered complete. Where questions arise under this section, the effective lifespan of structural practices and projects shall be defined by current and acceptable design standards or criteria as defined in Section 3.8.
- 3.2 **Project Assurances.** The grantee 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. See also the Projects Assurances section of the Grants Administration Manual.
- 3.3 **Operation, Maintenance and Inspections.** Identifying operation and maintenance activities specific to the installed practices is critical to ongoing performance of installed practices as well as to planning and scheduling those activities. An operation and maintenance plan must be prepared by designated technical staff for the life of the practice and be included with the design standards. An inspection schedule, procedure, and assured access to the practice site shall be included as a component of maintaining the effectiveness of the practice.
- 3.4 **Technical and Administrative Expenses.** Clean Water Funds may be used for actual technical and administrative expenses to advance project implementation. Eligible expenses include the following activities: grant administration, site investigations and assessments, design and cost estimates, construction supervision, and construction inspections. Technical and administrative expenditures must be appropriately documented according to the Grants Administration Manual.
- 3.5 **Project Support.** Eligible activities include public participation and engagement, equipment, and other activities necessary for the implementation of water quality practices consistent with the purposes of these funds. Refer to guidance within the Grants Administration Manual for Capital Equipment Purchases.
- 3.6 **Grant Management and Reporting.** 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. 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.
- 3.7 **Drinking Water.** Both surface water (streams, rivers, and lakes) and ground water (aquifers) can serve as sources of drinking water. Drinking water projects must be consistent with wellhead protection plans,

protection plans for surface water intakes, groundwater restoration and protection strategies (GRAPS), or local water management plans or their equivalents.

**3.8 Practice Standards.** All practices must be consistent with the Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG), Minnesota Stormwater Manual, or be a professionally accepted engineering or ecological practice. Design standards for all practices must include specifications for operation and maintenance for the effective life of the given practice, including an inspection schedule and procedure.

- a. **Feedlots.** Eligible activities are limited to: livestock management systems that were constructed before October 23, 2000, and livestock operations registered with the Minnesota Pollution Control Agency Database or its equivalent, and that are not classified as a Concentrated Animal Feeding Operation (CAFO) and have less than 500 animal units (AUs), in accordance with Minnesota Rule Chapter 7020. 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.
  - a. Funded projects must be in compliance with standards in MN Rule Chapter 7020 upon completion.
  - b. Eligible practices are limited to best management practices listed by the Minnesota NRCS and permitting requirements.
  - c. Eligible practices and project components must meet all applicable local, State, and federal standards and permitting requirements.
  - d. Feedlot roof structures are eligible up to \$100,000 per project with state grant funds and not to exceed 100% of construction costs.
  - e. Feedlot relocations are eligible up to \$100,000 per project with state grant funds and not to exceed 100% of the construction costs. The existing eligible feedlot must be permanently closed in accordance with local and State requirements. The existing and relocated livestock waste management systems sites are considered one project for grant funding.

#### ***Subsurface Sewage Treatment Systems (SSTS)***

- a. Local governments should first exhaust primary source of SSTS grant funding from the Minnesota Pollution Control Agency.
- b. Eligible activities are limited to identified imminent threat to public health systems (ITPHS) and systems that fail to protect groundwater. Project landowners must meet low income thresholds. Low income guidelines from U.S Rural Development are strongly encouraged as the basis for the definition of low income.
- 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 prior to the application deadline. For community wastewater system applications that include ITPHS, systems that fail to protect groundwater are also eligible.

- d. In an unsewered area that is connecting into a sewer line to a municipal wastewater treatment plant (WWTP), the costs associated with connecting the home to the sewer line is eligible for funding if the criteria in b. and c. above are met.

3.9 **Incentives.** Incentives to install or adopt best management practices that improve or protect water quality are an eligible use of funds. Incentive payments should be reasonable and justifiable, supported by grant recipient policy, consistent with prevailing local conditions, and must be based on established standards. BWSR reserves the right to review and approve incentive payment rates established by grant recipient policy. Incentives to install or adopt best management practices can have a maximum duration of 3 years with a goal of ongoing landowner adoption unless otherwise approved by the Assistant Director of Regional Operations prior to work plan approval.

3.10 **Non-structural Practices and Measures** Non-structural practices and activities that supplement or exceed current minimum state standards or procedures for protection, enhancement, and restoration of water quality in lakes, rivers, and streams and to protect groundwater and drinking water sources from degradation are eligible. Non-structural vegetative practices must follow the Native Vegetation Establishment and Enhancement Guidelines.

[http://www.bwsr.state.mn.us/native\\_vegetation/seeding\\_guidelines.pdf](http://www.bwsr.state.mn.us/native_vegetation/seeding_guidelines.pdf).

- a. **In-lake or in-channel treatment.** Best management practices such as rough fish management, vegetation management, lake draw-down and alum treatments that have been identified as an implementation activity are eligible. A feasibility study that meets minimal requirements as defined by BWSR must be completed prior to applying for funding and the report uploaded to eLINK as part of the grant application. Eligible costs apply only to initial costs for design and implementation. All subsequent applications and treatments under this subsection are considered to be Operations and Maintenance expenses that are a local responsibility.
- b. **Duration.** Projects proposing to install or adopt non-structural land management practices must have a minimum duration of 3 years with a goal of ongoing landowner adoption unless otherwise approved by BWSR. Any projects proposing a duration other than 3-years must be reviewed by BWSR staff and approved by the Assistant Director of Regional Operations prior to work plan approval.

#### 4. Ineligible Activities

The following activities are ineligible for these funds. The Clean Water Fund Competitive RFP may identify program specific ineligible activities.

- 4.1 Activities that do not have a primary benefit of water quality.
- 4.2 Water quality monitoring such as, but not limited to, routine, baseline, diagnostic, or effectiveness monitoring. This includes both surface and groundwater monitoring activities.
- 4.3 Household water conservation appliances and water fixtures.
- 4.4 Wastewater treatment with the exception of Subsurface Sewage Treatment Systems (SSTS).
- 4.5 Municipal drinking water supply facilities or individual drinking water treatment systems.

- 4.6 Storm water conveyances that collect and move runoff, but do not provide water quality treatment benefit.
- 4.7 Activities that outlet landlocked basins.
- 4.8 Development and delivery of educational activities and curriculum that do not support or lead to the implementation of prioritized and targeted water quality practices.
- 4.9 Replacement, realignment or creation of bridges, trails or roads.
- 4.10 Aquatic plant harvesting.
- 4.11 Routine maintenance or repair of best management practices, capital equipment and infrastructure within the effective life of existing practices or projects.
- 4.12 Feedlots:
  - a. Feedlot expansions beyond state registered number of animal units.
  - b. Slats placed on top of manure storage structures.
- 4.13 Subsurface Sewage Treatment Systems (SSTS):
  - a. Small community wastewater treatment systems serving over 10,000 gallons per day with a soil treatment system, and
  - b. A small community wastewater treatment system that discharges treated sewage effluent directly to surface waters without land treatment.
- 4.14 Any project that contributes to, or otherwise is used to replace wetlands impacted under the Wetland Conservation Act (per Minn. Rules. 8420).
- 4.15 Fee title land acquisition or easement costs, unless specifically allowed. If not specifically allowed, land acquisition and easement costs can count toward the required match if directly associated with the project and incurred within the grant period.
- 4.16 Buffers that are required by law (including Drainage Law and Buffer Law).
- 4.17 Activities required under the Groundwater Protection Rule.
- 4.18 Components of projects needed to meet the statutory requirements of 103E Drainage Law.

## 5. Technical Expertise

The grantee has the responsibility to ensure that the designated technical staff have the appropriate technical expertise, skills and training for their assigned role(s). See also the Technical Quality Assurances section of the Grants Administration Manual.

- 5.1 **Technical Assistance Provider.** Grantees must identify the technical assistance provider(s) for the practice or project and their credentials for providing this assistance. The technical assistance provider(s) must have appropriate credentials for practice investigation, design, and construction. Credentials can include conservation partnership Job Approval Authority (JAA), also known as technical approval authority; applicable professional licensure; reputable vendor with applicable expertise and liability coverage; or other applicable credentials, training, and/or experience.

5.2 **BWSR Review.** 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.

## **6. 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.

## **7. BWSR Grant Work Plan, Reporting and Reconciliation Requirements**

BWSR staff is authorized to develop grant agreements, requirements and processes for work plans and project outcomes reporting, closeouts, and fiscal reconciliations. 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 100% of the grant agreement.

Funds repaid to a grantee from a landowner or other land occupier who has failed to maintain a practice for its effective life must be reallocated to a local cost share program or project account consistent with MN Statutes Chapter 114D.50, less the administrative cost of the grantee.

The grantee board is the authority and has the responsibility to approve the expenditure of funds within their own organization. The approval or denial of expenditures of funds must be documented in the Grantee Board's meeting minutes.

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.

## History

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This policy was originally created in 2010 and is updated annually for each fiscal year of funding.

## Contact

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