

# NEBRASKA NATURAL RESOURCES COMMISSION

## Water Sustainability Fund

### Guidelines

This guidance document is advisory in nature but is binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operations of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.

### General Information

The Department of Natural Resources (DNR) and the Natural Resources Commission (NRC) have developed these guidelines. The guidelines are intended to assist an applicant in understanding the application process and what an application should contain for the Director of DNR to be able to make statutorily required findings of fact. Only if an application is determined to be satisfactory can it be forwarded to the NRC. Additionally, the guidelines contain assistance to an applicant in understanding what information the NRC will then utilize when scoring an application. The scores will then be used to rank applications and be the basis for determining funding. Sponsors whose projects were funded must then enter into a contract with DNR to proceed and prior to being eligible for reimbursement.

### Eligibility

The NRC has not defined separate criteria nor adopted rules describing the various types of project applications eligible to be filed. All applications found eligible by the Director, will be forwarded to the NRC and will be scored based upon the criteria described under Scoring in these Guidelines.

Previously submitted but unapproved applications should be updated with current cost/benefit information or other revised information before being resubmitted.

## Local Match Requirement

Only project sponsors that agree to provide 40% or more local funding match of the net total local project cost are eligible to receive funding. Local match is based on that portion of local project cost which is defined as the total cost that the sponsor would ultimately have to provide if financial assistance from the WSF was not available. All other sources of federal funding; **and state funding including any local match requirements**, must be subtracted from total project costs to arrive at net local project cost associated with water sustainability funds eligible for cost share.

For purposes of these guidelines, any request to use in-kind services as a portion of local revenue match must be pre-approved by the NRC and will only be eligible upon a showing of cost savings to the fund. The plan to use in-kind services and activities must be described in the application. Other than those described in the application, no use of in-kind services will be allowed to meet the local cost share requirement once the application has been approved. In the application the applicant must show how the use of in-kind services will result in lower project costs (For example a contractor's bid for the identical services is higher than the proposed value of the in-kind services).

## Application Process

Applications for new projects may be submitted to DNR between 12:01 a.m., March 16<sup>th</sup> and 12:00 p.m. (midnight), March 31<sup>st</sup> of each year. All applications must be submitted electronically.

**No paper copies or walk-in filling will be accepted!**

Applications found by the Director to be satisfactory and reviewed by the NRC but not approved for funding will be denied and the applicant informed. Such applications may be resubmitted to the Director in the next application cycle.

The Commission will score, and rank applications found satisfactory by the Director of DNR and make final decisions on which projects are funded.

Each application, in each application period, will be scored independently of its prior score, and future Commission members are not bound by scores of former Commissioners.

### Application Form

- Section “A” covers administrative information basic to administering the application and expediting application processing; and information to further describe the project.
- Section “B” covers the information required for the Director of DNR to find the application eligible/ineligible to be forwarded to the NRC as required by statute and rule.
- Section “C” covers the information necessary for the NRC to score the application and assign bonus points when applicable as required by statute and rule.

### User Requirements

All application and supporting documentation must be submitted online in one of three formats: MS Excel, MS Word, and/or as a Pdf. **No paper copies or walk-in filling will be accepted!** Multiple files may be submitted in zip file format.

All formulas and calculations must be shown or be assessable in the spreadsheet.

## **Costs Incurred Prior to Approval**

Costs incurred by an applicant prior to approval of an application by the NRC may not be included in project costs and will not be paid or reimbursed.

## **Ineligible Expenses**

Interest owed on borrowed money is not a cost which may be included in an application, nor will such costs be reimbursed.

Costs incurred by an applicant prior to approval of an application by the NRC (Prior Costs) may not be included in project costs and will not be paid or reimbursed.

Operation and/or maintenance expenses are solely the responsibility of the project sponsor and shall not be identified as part of the total or net local project cost and are thus not subject to reimbursement.

A rate of inflation may not be used as a component of project costs which are subject to reimbursement and may not be included in an application. Contingencies must be clearly described.

After deducting all other sources of funding contributed to offset costs of the project (such as federal, state, Nebraska Environmental Trust and/or others regardless of the method(s) of recording and receiving such funds), financial assistance from the Fund will be up to 60% of the remaining costs which otherwise would have to be paid from local sources.

## **Targets for Distributing Funds**

The NRC has not set limits on how the fund will be distributed through approved projects across the state but will strive to equitably distribute the fund statewide over the long term. The NRC will also award bonus points to projects which are the result of federal mandates when scoring project applications.

## **Distribution of Funds Utilizing Legislative “Cap”**

If a project's allocation exceeds its obligation, the project will be reviewed for additional obligation prior to acting on new project applications .

## **Economic Feasibility**

Except in the case of proposals for which there is no generally accepted method for calculation of primary tangible benefits and if the proposal will increase water sustainability, the economic feasibility of such proposal shall be demonstrated by such method as the Director and the NRC deem appropriate. A proposal is economically feasible if primary tangible benefits exceed project costs. All costs and benefit data are to be reported by the applicant and will be based upon current data with sources for all data documented.

Certain commodity prices, recreation benefit prices, and wildlife prices will be prescribed by the Director. The Director may also prescribe other cost and benefit information necessary for completion of the report. The period of analysis for economic feasibility studies shall be up to the life of the project.

### **Cost Information**

The application shall include all relevant cost information including, but not limited to the engineering, inspection, land rights acquisition and capital construction costs. Annual operation, maintenance and replacement costs are not eligible for reimbursement but should be used in the Cost/Benefit calculation if applicable. The estimated construction period as well as the estimated project life shall be described.

### **Benefit Information**

Only primary tangible benefits may be counted in providing the monetary benefit information. In a multi-purpose proposal, the benefits will be estimated for each purpose and displayed by year for the life of the project. Intangible and secondary benefits of the project should be described for consideration and evaluation by the Director and the NRC. Benefit measurement techniques and criteria shall be provided to the applicant by the Director.

### **Cash Flow Stream**

All benefit and cost data will also be presented in a table form to indicate the annual cash flow for the life of the project. A form for indicating the annual cash flow shall be supplied by the Director.

## Scoring

In the NRC's scoring process, points will be given to each project in ranking the projects, with the total number of points determining the final project ranking list. The following fifteen criteria constitute the items for which points will be assigned. Point assignments will be 0 to 6 for items 1 through 9; and 0 to 3 for items 10 through 15. Two additional points will be awarded to projects which address issues determined by the NRC to be the result of a federal mandate.

### Note:

- The responses to one criterion will not be considered in the scoring of other criteria. Repeat references as needed to support documentation in each criterion as appropriate. The 15 categories are specified by statute and will be used to create scoring matrixes which will ultimately determine which projects receive funding.
  - There is a total of 72 possible points, plus two bonus points. The potential number of points awarded for each criterion is noted in parenthesis. Once points are assigned, they will be added to determine a final score. The scores will determine ranking.
  - The NRC recommends providing the requested information and the requests are not intended to limit the information an applicant may provide. An applicant should include additional information that is believed will assist the NRC in understanding a proposal so that it can be awarded the points to which it is entitled.
    - Applications for a component of a larger project may only list the benefits of and receive points for the component for which funding is being requested.
    - No points will be awarded for any projects or portions of a project built or developed prior to the date of an application.
    - An application which contains either N/A or has a blank in an answer to a question in the scoring question section of an application will receive no points for each such answer.
- (1) Remediate or mitigates threats to drinking water (0, 1, 2, 3, 4, 5, or 6 pts).
- Describe the specific threats to drinking water the project will address.
  - Identify whose drinking water, how many people are affected, how will project remediate or mitigate.
  - Provide a history of issues and tried solutions.
  - Provide detail regarding long range impacts if issues are not resolved.
- (2) Meets the goals and objectives of an approved integrated management plan or ground water management plan (0, 1, 2, 3, 4, 5, or 6 pts).
- Identify the specific plan that is being referenced including date, who issued it and whether it is an IMP or GW management plan.
  - Provide the history of work completed to achieve the goals of this plan.
  - List which goals and objectives of the management plan the project provides benefits for and how the project provides those benefits.

- (3) Contributes to water sustainability goals by increasing aquifer recharge, reducing aquifer depletion, or increasing streamflow (0, 1, 2, 3, 4, 5, or 6 pts).
- List the following information that is applicable: 1. the location, area and amount of recharge; 2. the location, area and amount that aquifer depletion will be reduced; 3. the reach, amount and timing of increased streamflow. Describe how the project will meet these objectives and what the source of the water is.
  - Provide a detailed listing of cross basin benefits, if any.
- (4) Contributes to multiple water supply goals, including, but not limited to, flood control, agricultural use, municipal and industrial uses, recreational benefits, wildlife habitat, conservation of water resources, and preservation of water resources (0, 1, 2, 3, 4, 5, or 6 pts).
- List the goals the project provides benefits for; Describe how the project will provide these benefits.
  - Provide a long range forecast of the expected benefits this project could have vs continuing on current path.
- (5) Maximizes the beneficial use of Nebraska's water resources for the benefit of the state's residents (0, 1, 2, 3, 4, 5, or 6 pts).
- Describe how the project will maximize the increased beneficial use of Nebraska's water resources.
  - Describe the beneficial uses that will be reduced, if any.
  - Describe how the project provides a beneficial impact to the state's residents.
- (6) Is cost-effective (0, 1, 2, 3, 4, 5, or 6 pts).
- List the estimated construction costs, O/M costs, land and water acquisition costs, alternative options, value of benefits gained.
  - Compare these costs to other methods of achieving the same benefits.
  - List the costs of the project.
  - Describe how it is a cost-effective project or alternative.
- (7) Helps the state meet its obligations under interstate compacts, decrees, or other state contracts or agreements or federal law (0, 1, 2, 3, 4, 5, or 6 pts).
- Identify the interstate compact, decree, state contract or agreement or federal law.
  - Describe how the project will help the state meet its obligations under compacts, decrees, state contracts or agreements or federal law.
  - Describe current deficiencies and document how the project will reduce deficiencies.
- (8) Reduces threats to property damage or protects critical infrastructure that consists of the physical assets, systems, and networks vital to the state or the United States such that their incapacitation would have a debilitating effect on public security or public health and safety (0, 1, 2, 3, 4, 5, or 6 pts).
- Identify the property that the project is intended to reduce threats to.
  - Describe and quantify reductions in threats to critical infrastructure provided by the project and how the infrastructure is vital to Nebraska or the United States.

- Identify the potential value of cost savings resulting from completion of the project.
  - Describe the benefits for public security, public health and safety.
- (9) Improves water quality (0, 1, 2,3, 4, 5, or 6 pts).
- Describe what quality issue(s) is/are to be improved.
  - Describe and quantify how the project improves water quality, what is the target area, what is the population or acreage receiving benefits, what is the usage of the water: residential, industrial, agriculture or recreational.
  - Describe other possible solutions to remedy this issue.
  - Describe the history of the water quality issue including previous attempts to remedy the problem and the results obtained.
- (10) Has utilized all available funding resources of the local jurisdiction to support the program, project, or activity (0, 1, 2, or 3 pts).
- Identify the local jurisdiction that supports the project.
  - List current property tax levy, valuations, or other sources of revenue for the sponsoring entity.
  - List other funding sources for the project.
- (11) Has a local jurisdiction with plans in place that support sustainable water use (0, 1, 2, or 3 pts).
- List the local jurisdiction and identify specific plans being referenced that are in place to support sustainable water use.
  - Provide the history of work completed to achieve the goals of these plans.
  - List which goals and objectives this project will provide benefits for and how this project supports or contributes to those plans.
  - Describe and quantify how the project supports sustainable water use, what is the target area, what is the population or acreage receiving benefits, what is the usage of the water: residential, industrial, agriculture or recreational.
  - List all stakeholders involved in project.
  - Identify who benefits from this project.
- (12) Addresses a statewide problem or issue (0, 1, 2, or 3 pts).
- List the issues or problems addressed by the project and why they should be considered statewide.
  - Describe how the project will address each issue and/or problem.
  - Describe the total number of people and/or total number of acres that would receive benefits.
  - Identify the benefit, to the state, this project would provide.
- (13) Contributes to the state's ability to leverage state dollars with local or federal government partners or other partners to maximize the use of its resources (0, 1, 2, or 3 pts).
- List other funding sources or other partners, and the amount each will contribute, in a funding matrix.
  - Describe how each source of funding is made available if the project is funded.
  - Provide a copy or evidence of each commitment, for each separate source, of match dollars and funding partners.



- Describe how you will proceed if other funding sources do not come through.
- (14) Contributes to watershed health and function (0, 1, 2, or 3 pts).
- Describe how the project will contribute to watershed health and function in detail and list all of the watersheds affected.
- (15) Uses objectives described in the Annual Report and Plan of Work for the State Water Planning and Review Process (Annual Report) issued by the department (0, 1, 2, or 3 pts).
- Identify the date of the Annual Report utilized.
  - List any and all objectives of the Annual Report intended to be met by the project.
  - Explain how the project meets each objective.

Federal Mandate (0, 2 pts).

- Describe the federal mandate.
- Provide documentary evidence of the federal mandate.
- Describe how the project meets the requirements of the federal mandate.
- Describe the relationship between the federal mandate and how the project furthers the goals of water sustainability.

## **Sponsor Reimbursements**

Sponsors whose applications were awarded a grant or loan must enter into a contract signed by a representative of both the sponsor and DNR prior to reimbursement of any funds.

For projects which are approved by the NRC funding will be disbursed on a reimbursement basis in accordance with individually developed contracts. Statutorily project sponsors are required to enter into a contract with the DNR prior to reimbursement of any funds. Each request for reimbursement shall include a completed and signed reimbursement form, which will be provided by the Department, and shall be accompanied by copies of invoices detailing enough information to tie the work or supplies to the project, cancelled checks showing proof of payment, and sufficient other documentation as requested by Department staff to justify reimbursement.

To be eligible for reimbursement of land Rights / ROW the local organization, defined as and limited to public districts, cities, counties, political subdivisions and agencies of the State or of the Federal government, must first enter into an agreement with the Department. Such agreement, which shall be on a form supplied by the Department, shall provide that the local organization will abide by the law and rules and regulations governing administration of the Water Sustainability Fund. All acquisition expense reimbursement claims should include the following documentation to show that you purchased what you agreed to:

- 1.) Completed Purchase Agreement (signed by both parties).
- 2.) Deed or Easement (with signatures, seal or filing stamp).
- 3.) Title insurance / Proof of ownership which includes metes and bounds description of the property.
- 4.) Cancelled checks (for everything purchase, appraisals, filing fees, legal fees etc.).
- 5.) Closing Statement signed by the grantor.

## **Cost Share Payments**

Payments for costs incurred for approved projects will be made on a reimbursement basis upon receipt of required documentation. Payments shall not exceed 60% and are limited to eligible costs. Reimbursements are limited to no more than one per month.

## **Project Funding Duration**

Projects will be allocated the total amount of a grant at the time of approval; but obligation of actual funding (capable of being paid) may be granted at the time of approval or be partially obligated (funded) on a year-by-year basis. If a project is

not fully obligated at the time of approval, the unobligated portion will be subject to the Legislature's continued appropriation of funding to this fund and subsequent obligation by the NRC.

## **Contract End Date**

Contracts for project grants of \$250,000 or less will terminate on or before 5 years from the date of project approval by the NRC, and contracts for project grants over \$250,000 will terminate on or before 10 years from the date of project approval by the NRC, unless initially approved for a longer period of time. Project sponsors may obtain an extension of time to complete the project, provided the request is brought before the Commission and placed on the Commission's agenda during a regularly scheduled meeting no later than twelve (12) months prior to the project end date. The Commission shall consider the amount of work remaining, reasons for the project's failure to be timely completed, and the likelihood that the project will be completed given the additional time requested. If the sponsor is not granted an extension of time, the contract will be terminated and no further reimbursements for work done after the termination date will be made.

## **Status Reporting**

Annual reports **must** be submitted to the DNR by April 1<sup>st</sup> containing information detailing project progress from the previous year and anticipated progress for the remaining calendar year. The annual report shall also contain an update of the estimated time schedule for beginning and completing the approved project and any anticipated delays to implementing the project or obtaining sufficient funds to meet the applicant's financial obligations for the project.

DNR staff may also assess project status and activities and report findings to the NRC.

## **Close Out Report**

At the time the Applicant completes a project, a Close Out Report will be submitted to the Commission and the Director identifying what the project accomplished and what benefits were achieved. Quantifying and/or explicitly describing the water sustainability benefits, as described in the application, that were or will be achieved by the funding supplied by the Fund is preferred. After project completion/close out, annual reports are no longer required, unless real estate that was acquired as a part of the project is rented or otherwise generates revenue exclusive of park entry fees, city fees or revenue not resulting from the project.

The "Scoring" section of these Guidelines was approved by the Natural Resources Commission on September 29, 2015.

Guidelines Revised October 2016.

Guidelines Revised May 2018.

Guidelines Revised March 2019.

Guidelines Revised December 2022.

Guidelines Revised March 2024.