

7076.0130 ELIGIBILITY CRITERIA.

Subpart 1. **Grant-eligible proposers.** Only local units of government are eligible to apply for grants and receive technical assistance. A local unit of government is eligible to apply for grants and request technical assistance if it has the following:

- A. the authority to coordinate and enter into contracts with local, state, and federal agencies and private organizations for the purpose of carrying out a project;
- B. the authority to generate cash revenues and in kind contributions for the local share of a project; and
- C. an approved local water plan that addresses the water of concern.

Subp. 1a. **Loan-eligible proposers.** Only local units of government that meet the requirements of subpart 1 are eligible to apply for loans and receive technical assistance. A local unit of government is eligible to receive a loan if it has the following:

- A. the ability to pledge its full faith and credit to ensure repayment of a project loan;
- B. the authority to generate cash revenues for the repayment of a loan; and
- C. the authority to enter into a loan agreement with the agency.

If the local unit of government submitting the proposal does not meet the criteria in items A to C, it must submit a resolution from at least one local unit of government that does meet the criteria stating that the loan-eligible local unit of government resolves to participate in the project as a loan sponsor.

Subp. 2. **Eligible costs.** Project costs are eligible for financial assistance if they are reasonable, necessary, and allocable to the project. The dredging of harbors, lakes, ditches, constructed wetlands, and existing sedimentation basins; sewage treatment system upgrades; and the use of ferric chloride, aluminum sulfate, or other chemicals to precipitate phosphorus are eligible for loan funds but are not eligible for grant funds. In addition, costs related to any of the following activities are eligible for financial assistance:

- A. water quality monitoring, water resource and project area data and information collection, data and information analysis and assessment, and related tasks;
- B. fiscal and management activities including report preparation;
- C. selection, design, layout, and installation of best management practices consistent with the federal Water Pollution Control Act, United States Code, title 33, sections 1329 and 1330, referred to as sections 319 and 320 of the federal Clean Water Act, as amended;
- D. development, review, and inspection of procedures for the installation, operation, and maintenance of best management practices;

E. the costs of implementation of best management practices for animal feedlot operations if the best management practice installation is not related to a criminal enforcement action or a civil enforcement action involving financial penalties;

F. development and implementation of public education materials and activities;

G. development and implementation of official controls;

H. acquisition of easements and property; and

I. other activities determined by the agency or established by federal regulation to be necessary to carry out the project.

Subp. 3. **Ineligible costs.** Ineligible costs include any costs that are not related to the activities in subpart 2. Costs identified under subpart 2 are ineligible if the related project activities are started before the grant contract has been signed by the commissioner or before the loan contract has been signed by the commissioner and the commissioner of management and budget. In addition, the following costs are ineligible for financial assistance whether or not they relate to the activities in subpart 2:

A. operation and maintenance of best management practices;

B. activities regulated by the Petroleum Tank Release Cleanup Act, Minnesota Statutes, chapter 115C; the Environmental Response Compensation and Liability Act, Minnesota Statutes, chapter 115B; the Agricultural Chemical Liability Act, Minnesota Statutes, chapter 18D; the Comprehensive Environmental Response, Compensation, and Liability Act, United States Code, title 42, sections 9601 to 9675; and the Resource Conservation and Recovery Act, United States Code, title 42, sections 6901 to 6991;

C. activities regulated by the national pollutant discharge elimination system permit program, parts 7001.1000 to 7001.1100, except that the following are eligible costs:

(1) the costs of outreach, technical assistance, and education activities concerning animal waste management, and the costs of best management practices for animal feedlot operations are eligible if the implementation activities are part of an eligible watershed or groundwater project and if the best management practice installation is not related to a criminal enforcement action or a civil enforcement action involving financial penalties; and

(2) the costs of outreach, technical assistance, implementation of source control and runoff control best management practices, and education activities related to stormwater control;

D. activities regulated by a condition of a solid waste or hazardous waste permit or the agency solid waste rules, chapter 7035; or the agency hazardous waste rules, chapter 7045;

E. activities funded by state or federal grants or loans for publicly owned treatment works;

F. regulated practices to control spills of pesticides, fertilizer, petroleum, and related materials from bulk storage facilities;

G. regulated practices to manage toxic or hazardous materials;

H. commercial operations and industrial processes and land use and land management activities directly related to commercial operations and industrial processes including plant yards, access roads, drainage ponds, refuse piles, storage piles, and material product loading areas, excluding farming operations occurring on the farm itself;

I. active and inactive mining activities;

J. building and utility construction;

K. highway and road construction;

L. activities intended primarily for flood control; and

M. activities that violate local, state, and federal statutes, rules, and regulations.

Subp. 4. **Eligible local share for project grants.** Any grant- or loan-eligible project costs as described in subparts 2 and 3 that are not funded through a project grant are eligible as local share. At least 30 percent of the project costs must be derived from nonstate and nonfederal sources. Project loans are considered nonstate and nonfederal sources for the purposes of this subpart. Costs incurred by a land occupier or project partner for the installation of best management practices may be considered a part of the local share provided the following conditions are met:

A. the primary purpose of the best management practices is for protection, enhancement, or restoration of water quality;

B. any structural best management practices must be designed for a minimum effective life of ten years;

C. any equipment purchased for operational best management practices must have a minimum effective life of ten years and be maintained or replaced by the land occupier during this period of time, or there must be a plan approved by the commissioner scheduling the phase-out of the operational best management practices; and

D. there must be an operation and maintenance plan for the minimum effective life of the best management practices.

Statutory Authority: *MS s 103F.745; 115.10*

History: *13 SR 661; 16 SR 584; 20 SR 1245; L 2009 c 101 art 2 s 109; 37 SR 1334*

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