

Title 261 - NATURAL RESOURCES COMMISSION

RULES GOVERNING THE ADMINISTRATION OF THE WATER SUSTAINABILITY FUND

Chapter 2 - APPLICATION PROCEDURES AND REQUIREMENTS

001. FILING FEES. No filing fee is required to accompany any program, project and/or activity proposal or any application for assistance from the Fund.

002. FILING LOCATION. All proposals, applications or other documents or instruments supplied by an applicant in connection with a request for financial assistance from the Fund are to be filed with the Director.

003. APPLICATION PROCEDURE. If the applicant decides to submit an application, the number and format of the application may be specified by the Director.

004. ENGINEERING AND TECHNICAL FEASIBILITY.

004.01. A structural proposal is considered feasible when it can and will be designed, constructed, and operated to accomplish the purpose(s) for which it was planned utilizing accepted engineering, geohydrologic and other technical principles and concepts. Engineering and technical data and information to be provided in the feasibility report should include, but is not limited to, the following:

004.01(A). A detailed discussion of the plan of development selected for the proposal;

004.01(B). A description of all field investigations made to substantiate the feasibility report;

004.01(C). Maps, drawings, charts, tables, etc., used as a basis for the feasibility report;

004.01(D). A description of the water and land rights associated with the proposal and pertinent water supply and water quality information, if appropriate;

004.01(E). A detailed discussion of each component of the final plan preparation including, when applicable:

004.01(E)(i). Required geologic investigation;

004.01(E)(ii). Required hydrologic data;

004.01(E)(iii). Design criteria for final design including, but not limited to, soil mechanics, hydraulic, hydrologic, structural, embankments and foundation criteria.

004.02. A non-structural proposal is considered to be technically feasible when it can and will be designed and carried out to accomplish the purpose(s) for which it was planned. Data necessary to establish the technical feasibility should include, but is not limited to the following:

004.02(A). A detailed discussion of the plan of development designed for the proposal, including techniques to be utilized in all aspects of the proposal;

004.02(B). A description of field or research investigations utilized to substantiate the project conception;

004.02(C). A description of the water and/or land rights necessary for proposal continuation, if applicable;

004.02(D). A discussion of the anticipated effects, if any, of the proposal upon the development and/or operation of existing or envisioned structural measures including a brief description of any such measure.

005. ECONOMIC FEASIBILITY. Except as otherwise specified by subsection 005.04 of this section, a proposal is economically feasible if primary tangible benefits exceed project costs. All costs and benefit data reported by the applicant will be based upon current data and sources for all data must be 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 will be the life of the proposal.

005.01. Cost Information. The application must include all relevant cost information including, but not limited to the engineering and inspection costs, capital construction costs, annual operation and maintenance costs, and replacement costs. Cost information must also include the estimated construction period as well as the estimated proposal life.

005.02. 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 proposal life. The application must not include benefits derived from a previously constructed project or portion of a project. Intangible and secondary benefits of the proposal should be described for consideration and evaluation by the Director and the Commission. Benefit measurement techniques and criteria must be provided to the applicant by the Director.

005.03. 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 proposal. A form for so indicating the annual cash flow must be supplied by the Director.

005.04. Other Methods. 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 must be demonstrated by such method as the Director and

the Commission deem appropriate.

006. FINANCIAL FEASIBILITY. A proposal is financially feasible if sufficient funds can be made available to complete the proposal, and if sufficient annual revenues can be obtained to repay the reimbursable costs and to operate, maintain, and replace the proposal. When an applicant has partners or co-sponsors on a project, a signed letter of commitment, or an agreement from each such partner or co-sponsor must be submitted with the application in order to demonstrate capability to complete a project. The proposal will identify the amount and source of federal, state, local and/or other funding from the applicant and each partner or cosponsor, if any, so that eligibility for funding can be determined. When a loan is involved, financial feasibility requires assurance that the proposals can be adequately operated, maintained, and replaced and that the loan can be repaid during the repayment life of the proposal.

If a loan is requested, applicant must also supply a complete year-by-year repayment schedule in such detail as directed by the Director.

007. COMBINED SEWER OVERFLOW PROJECT APPLICATION. If an application is from a municipality for assistance with the cost of constructing, upgrading, developing and replacing sewer infrastructure facilities as a part of a combined sewer overflow project, as defined in this Title, it must contain in its application a demonstration of need for financial assistance from the Fund and the population of the municipality.

008. INELIGIBLE NATURAL RESOURCES DISTRICTS. See Neb. Rev. Stat. § 2-1507(5).

009. INELIGIBLE APPLICATIONS OR COMPONENTS OF APPLICATIONS.

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

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

009.03. Operation and/or maintenance expenses will not be costs of a project which can be reimbursed and may not be included in an application.

009.04. 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.

009.05. Grant Provisions.

009.05(A). For applicants other than the Department of Natural Resources, after deducting all other sources of funding contributed to offset costs of the project (such as federal, state, Nebraska Environmental Trust and/or other sources regardless of the method(s) of recording and receiving such funds), financial assistance from the Fund

will be 60%, or a lesser percentage if requested by the applicant, of the remaining costs which otherwise would have to be paid from local sources. The following project costs may not be included as a share of the applicant costs:

- (1) Costs paid or reimbursed by a. non-state entities having as a source federal money or b. federal entities;
- (2) Costs for operation and maintenance, debt interest, applicant administration and management costs;
- (3) Discretionary costs.

009.05(B). For the Nebraska Department of Natural resources, after deducting federal and Nebraska Environmental Trust funds, financial assistance from the Fund will be 60%, or a lesser percentage if requested by the Department, of the remaining project costs. The Department may meet the match requirement with other sources of state funding and may include preapproved in-kind services. The following project costs may not be included as a share of the Department costs:

- (1) Costs paid or reimbursed by a. non-state entities having as a source federal money or b. federal entities;
- (2) Costs for operation and maintenance, debt interest, applicant administration and management costs;
- (3) Discretionary costs.

009.06. An applicant may use in-kind services for a portion of its local cost share but only if such use is preapproved by the Commission in writing and only upon the applicant showing 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).

010. APPLICATION FILING DATES. Each year, applications shall be submitted to the Director beginning on March 16, and must be received by March 31.

011. INFORMATION REQUIRED IN AN APPLICATION. In addition to other information that may be required to be included in an application, applications must specify:

- (1) the amount requested as a loan, if any, and the amount requested as a grant, if any;
- (2) if the amount requested is for \$250,000 or less;
- (3) if the amount requested is more than \$250,000;
- (4). if the project will not be completed in one year or less, the amount of funding requested in each year for which the project is requesting funding.

012. RETURNED APPLICATIONS. Applications found by the Director to be satisfactory and reviewed by the Commission 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 and if the applicant chooses to do so, then the applicant must either certify that there are no changes in the application or include a narrative page describing any changes in the application compared to the prior application.

