

WATERSHED RESTORATION AND PROTECTION PROGRAM

Program Guidelines | November 2019



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Section I – Statement of Purpose

Act 13 of 2012 (Act of February 14, 2012 (P.L. 87, No. 13) (58 Pa.C.S. §2315(a) and (a.1)(1)(vi)) establishes the Marcellus Legacy Fund and allocates funds to the Commonwealth Financing Authority (the “Authority”) for watershed restoration and protection projects.

Nutrient and sediment loadings coming from multiple nonpoint sources of land disturbance including agricultural and stormwater runoff are leading causes of watershed degradation in Pennsylvania. Uncontrolled and untreated runoff coming from these sources causes water quality impairments to over 8,100 stream miles within the Commonwealth. Hydromodification of stream channels due to uncontrolled runoff also impairs a significant number of stream miles across the commonwealth.

The overall goal of the Watershed Restoration and Protection Program (WRPP) is to restore, and maintain restored stream reaches impaired by the uncontrolled discharge of nonpoint source polluted runoff, and ultimately to remove these streams from the PA Department of Environmental Protection’s (DEP’s) Impaired Waters list. This may be accomplished by the implementation of watershed based Best Management Practices (BMPs) for agriculture, stormwater, stream bank and channel restoration, as well as for BMP repair, upgrade or operation and maintenance of existing practices.

Section II – Eligibility

A. Eligible Applicants

Any of the following entities may apply for a grant under the Watershed Restoration and Protection Program (WRPP):

1. **Municipality** – Any county, city, borough, incorporated town, township or home rule municipality.
2. **Councils of Governments** – An entity organized by units of local government under an intergovernmental agreement, which provides cooperative planning, coordination and technical assistance to its member governments on issues of mutual concern that cross jurisdictional lines, and which does not act under the direction and control of any single member government.
3. **Authorized Organization** – An entity involved in research, restoration, rehabilitation, planning, acquisition, development, education or other activities, which furthers the protection, enhancement, conservation, preservation or enjoyment of this commonwealth's environmental, conservation, recreation or similar resources. The organization must be a tax-exempt institution under section 501(c) (3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c) (3)) and registered with the Bureau of Charitable Organizations or an educational institution involved in these authorized activities or a municipal authority.
4. **Institution of Higher Education** – An entity that is an accredited university, college, seminary college, community college or two-year college.
5. **Watershed Organization** – An entity recognized by the PA Department of Conservation and Natural Resources or the PA Department of Environmental Protection that was established to promote local watershed conservation efforts in an identified watershed.
6. **For Profit Businesses** – other than “producers” of natural gas as defined in Act 13.

B. Eligible Projects

1. Watershed restoration/protection projects implementing runoff control or runoff reduction BMPs on agricultural operations negatively impacting local or regional stream quality. A description of BMPs commonly used for agricultural operations is provided in the PA Soil and Water Conservation Technical Guide administered by the USDA Natural Resources Conservation Service (NRCS).
2. Watershed restoration/protection projects implementing runoff control or runoff reduction BMPs addressing urban or residential areas negatively impacting local or regional stream quality. A listing of potential BMPs is contained in the Pennsylvania Stormwater Best Management Practices Manual, administered by PA DEP.
3. Watershed projects that refurbish, restore, or create stream bank or stream channel stabilization using bio-engineering techniques.
4. Repair and maintenance of existing watershed protection BMPs addressing agricultural, urban/residential, and degraded stream areas.
5. Monitoring of water quality to track, or continue to track, NPS load reductions resulting from watershed protection BMP implementation projects.

C. Eligible Use of Funds

Funds may be used by the applicant to pay for any of the following project costs:

1. Construction, improvement, expansion, repair, maintenance or rehabilitation of new or existing watershed protection BMPs, and security fencing. Construction contingency limited to 5% of actual construction costs.
2. For construction projects, no more than 10% of the grant award may be used for engineering and construction oversight, inspection and performance monitoring costs. Technical assistance necessary to carry out the project.
3. Stream channel and stream bank stabilization activities including the establishment of riparian vegetation to allow for long term stability of the stream.
4. In stream monitoring to assess stream restoration status.
5. Trust funds for operations and maintenance costs associated with implemented urban and stream restoration BMPs. (limited to 25% of the grant award.) Trust funds may be established for a period of no more than 20 years.
6. Administrative costs of the applicant necessary to administer the grant. Administrative costs will include advertising, legal, and audit costs as well as documented staff expenses. Administrative costs shall not exceed 2% of the grant award.

Ineligible costs include but are not limited to public relations, outreach, communications, lobbying, litigation, fees for securing other financing, interest on borrowed funds, application preparation fees and other costs incurred prior to the approval of grant funds.

Section III – Program Requirements

A. Applicant Cost Share Requirements

A 15% cash match of the total project cost or cash equivalents for the appraised value of the real estate is required. Eligible match contributions will be permitted for up to one year prior to the grant submittal deadline date through the life of the grant agreement as long as the eligible match expenditures are directly related to the project. If using the value of real estate as match, **an appraisal not older than 1 year will be required.** Match commitment documentation is required to be provided along with the application (see Appendix 1, Exhibit 3).

B. Planning and Permit Requirements

All recipients of funding for construction projects where federal, state, or local planning or permit approvals are required, must state in the application that the project will secure the necessary planning and permit approvals for the project prior to beginning construction. The project applicant must document in the application that the project generally is in compliance with any applicable county or local comprehensive plans as evidenced by a letter from the appropriate local planning agency, prior to funds being disbursed.

C. Other Requirements

1. Conflicts of Interest

An officer, director, or employee of an applicant who is a party to or who has a private interest in a project shall disclose the nature and extent of the interest to the governing body of the applicant and may not vote on any action of the applicant concerning the project, nor participate in the deliberations of the applicant concerning the project.

2. Nondiscrimination

No assistance shall be awarded to an applicant under this program unless the applicant certifies that the applicant shall not discriminate against any employee or against any person seeking employment by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the Pennsylvania Human Relations Act, which prohibits discrimination on the basis of race, color, religious creed, ancestry, age, sex, national origin, handicap or disability, or in violation of any applicable federal laws. All contracts for work to be paid with grant funds must contain the commonwealth's official nondiscrimination clause.

3. Project Records

The applicant must maintain full and accurate records with respect to the project and must ensure adequate control over related parties in the project. The Authority requires access to such records, as well as the ability to inspect all work, invoices, materials, and other relevant records at reasonable times and places. Upon request of the Authority, the applicant must furnish all data, reports, contracts, documents, and other information relevant to the project.

4. Certification of Expenses

The applicant shall sign a payment request form certifying that the expenses were incurred and were in accordance with the scope of work approved by the CFA. In lieu of a formal project audit and prior to final closeout of the grant agreement, the applicant shall be required to submit copies of all canceled checks verifying the expenditure of the Watershed Restoration and Protection Program proceeds. Bank statements may also be submitted if electronic payment of the expenditure occurred.

5. Bidding Requirements

Applicants must comply with all applicable federal, state, and local laws and regulations dealing with bidding and procurement.

6. Pennsylvania Prevailing Wage

All the construction work associated with the project may be subject to the Pennsylvania Prevailing Wage Act, as determined by the Pennsylvania Department of Labor and Industry.

7. Guideline Provisions

The Water Restoration and Protection Program guideline provisions may be modified or waived by the Authority unless otherwise required by law.

8. Final Report

Successful applicants will be required to provide two copies of a final report at the end of implementing the grant project. This final report will outline the activities that took place during the project, what facilities were installed, where the facilities were installed (locational data must be consistent with input into a GIS system), grant provided and total costs for the project (and how those costs compared to the budget request), before and after photographs where applicable, and a description of the water quality improvements that resulted from the implementation of the project. A one-page project summary, applicable for release to the public, outlining the above information must be included as part of the final report.

9. Maintenance of Easements

An eligible applicant shall provide for or ensure any necessary easements, rights-of-way, and landowner commitments to allow project access.

D. Fees

The Commonwealth Financing Authority charges a \$100 non-refundable application fee for Watershed Restoration and Protection Program applications. The application fee must be paid electronically by credit or debit card or electronic check through our secure, third-party vendor. Payment of the application fee must be completed prior to the certification and submission of the Electronic Single Application. Detailed payment instructions will be provided on the Certification Tab of the Electronic Single Application once all required fields have been completed.

Section IV – Grants

1. Grants shall not exceed a total of \$300,000 for any project.
2. To be eligible for reimbursement, project costs must be incurred within the time frame established by the grant agreement.

Section V – Application Procedures

1. To apply for funding, the applicant must submit the electronic on-line PA Department of Community and Economic Development Single Application for Assistance located at www.esa.dced.state.pa.us. Required supplemental information outlined in Appendix I of these guidelines must be attached electronically to the application as directed on the Addenda tab. For technical inquiries regarding the submission of the on-line application, contact the Customer Service Center at (800) 379-7448 or (717) 787-3405. Once submitted, please print one (1) copy of the application, including the required supplemental information, and mail to:

PA Department of Community and Economic Development
Office of Business Financing – CFA Programs Division
Watershed Restoration and Protection Program
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

Please reference the application ID number on any documents sent with the signature page.

2. Applications will be accepted between February 1st and May 31st of each year. All applications and required supplemental information must be received by May 31st.

Section VI – Application Evaluation

All applications for financial assistance will be reviewed by the Authority in conjunction with the PA Department of Community and Economic Development and the PA Department of Environmental Protection to determine eligibility of the proposed project as well as the competitiveness of the proposal. Applications are evaluated on a competitive basis using the following criteria:

1. The number of municipalities that will potentially benefit from the project.
2. The ability of the project to contribute to restoring waters listed as impaired in Pennsylvania's Integrated Water Quality Monitoring Assessment Report (formerly known as the 303(d) report).
3. The miles of stream expected to be fully or partially restored, or continued to remain restored, through the implementation of this proposed project. Whether the project falls within any of the following: 1) PA DEP designated high priority watersheds identified as a priority for NPS remediation (as identified in the most current Watershed Protection Grants package, commonly referred to as the Growing Greener grant application package), or 2) watersheds with a U.S. EPA approved Federal Clean Water Act, Section 319 Watershed Implementation Plan, or 3) watersheds for which a Total Maximum Daily Loads (TMDL) has been developed, or 4) watersheds that are identified as impaired on the Pennsylvania's Integrated Water Quality Monitoring Assessment Report.
4. The ability of the project to successfully address nutrient and sediment related watershed impairments.
5. The cost-effectiveness of the project. Eligible projects must show that a problem exists within a watershed and that the costs can be economically justified when compared to the benefits a project provides in NPS load reduction and stream restoration.
6. Whether the project is consistent with any applicable county or local comprehensive plans.
7. The ability of the applicant to accomplish its listed milestones within the timeframe given for the grant.

Section VII – Procedure for Accessing Funds

Upon approval of an application by the CFA, a grant agreement and commitment letter will be electronically issued to the applicant explaining the terms and conditions of the grant. The Grantee must provide the names, titles and e-mail addresses for two authorized individuals to receive and electronically sign the grant agreement. The grant agreement must be electronically signed and returned to the CFA within 45 days of the date of the commitment letter or the offer may be withdrawn by the CFA.

For projects including construction activities, the applicant shall obtain the services of a professional engineer licensed in Pennsylvania who, prior to disbursing grant funds, will certify to the Authority that the expenses were incurred and were in accordance with the plans approved by the Authority. The Authority will release funds to the applicant at not less than 30-day intervals.

Section VIII - Program Inquiries

Program inquiries should be directed to:

PA Department of Community and Economic Development
Office of Business Financing – CFA Programs Division
Watershed Restoration and Protection Program
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

Telephone: (717) 787-6245
Fax (717) 772-3581
E-mail: ra-dcedsitedvpt@pa.gov

These guidelines can also be accessed online at dced.pa.gov

Appendix I – Supplemental Information

In addition to completing the PA Department of Community and Economic Development Single Application for Assistance, please include the following items when applying for a grant under this program:

Exhibit 1: Project Description

Descriptive narrative, that includes the following information:

- a) the location of the project;
- b) the current owner of the project site;
- c) the current conditions of the site;
- d) the need for the project;
- e) the expected results of the project (including estimated load reductions) and a detailed scope of work including a schedule for completing the project milestones;
- f) the number of municipalities that will potentially benefit from the project;
- g) the ability of the project to contribute to restoring waters listed as impaired in Pennsylvania's Integrated Water Quality Monitoring Assessment Report (formerly known as the 303(d) report);
- h) the miles of stream expected to be fully or partially restored (or continued to remain restored) through the implementation of this proposed project.
- i) whether the project falls within any of the following:
 - 1) DEP designated high priority watersheds identified as a priority for NPS remediation (as identified in the most current Watershed Protection Grants package, commonly referred to as the Growing Greener grant application package);
 - 2) watersheds with an EPA approved Federal Clean Water Act, Section 319 Watershed Implementation Plan;
 - 3) watersheds for which a Total Maximum Daily Loads (TMDL) has been developed, or;
 - 4) watersheds that are identified as impaired on the Pennsylvania's Integrated Water Quality Monitoring Assessment Report, the ability of the project to successfully address nutrient and sediment related watershed impairments, the cost-effectiveness of the project.

Eligible projects must show that a problem exists within a watershed and that the costs can be economically justified when compared to the benefits a project provides in NPS load reduction and stream restoration.

Exhibit 2: Cost Estimate

A thorough and detailed estimate for the total project cost. The estimate must be prepared by an engineer or other qualified professional and should be accompanied where appropriate by copies of the signed bid/quotations, contractor estimates, or other documentation that verify project cost estimates.

Exhibit 3: Matching Funds Commitment

Provide funding commitment letters from all other project funding sources (including equity commitments).

- Funding commitments or term sheets provided by lending institutions must include the term, rate, and collateral conditions, and must be signed and dated.
- Funding commitments of equity from the applicant or private third party must be signed and dated (indicating the amount of funds being committed) and be accompanied by documentation (such as audited financial statements) showing the ability to commit such funds.
- If using the value of real estate as match, an appraisal not older than 1 year will be required.

Exhibit 4: Color-Coded Map

A 8.5' X 11' map showing the location, and where relevant, the boundaries of the project site.

The base map used for this designation is the relevant USGS topographic map. The USGS topographic map name must be included on this map submission. Additional maps and site drawings may be included by the applicant to assist in describing the proposed project.

Exhibit 5: Planning Letter

Documentation that the project generally is in compliance with any applicable county or local comprehensive plans as evidenced by a letter from the appropriate local planning agency.

Exhibit 6: Property Boundary Drawings

Copies of drawings or site sketches showing property boundaries and the various property easements (both temporary and permanent) required to construct the project.

Exhibit 7: Landowner Consent Letter

Letter from the landowner giving the applicant consent to entry.

Exhibit 8: Permits

List of all state, federal, and local planning and permit approvals that will need to be obtained.

Exhibit 9: Resolution

For public sector applicants, provide a resolution duly adopted by the applicant's governing board formally requesting the grant, designating an official to execute all documents, describing briefly the project scope, and identifying the grant amount.

Appendix II – Authorized Official Resolution

Be it RESOLVED, that the _____ (Name of Applicant) of _____ (Name of County) hereby request a Watershed Restoration and Protection Program (WRPP) grant of \$ _____ from the Commonwealth Financing Authority of the Commonwealth of Pennsylvania to be used for _____.

Be it FURTHER RESOLVED, that the Applicant does hereby designate _____ (Name and Title) and _____ (Name and Title) as the official(s) to execute all documents and agreements between the _____ (Name of Applicant) and the Commonwealth Financing Authority to facilitate and assist in obtaining the requested grant.

I, _____, duly qualified Secretary of the _____ (Name of Applicant), _____ (Name of County) _____, PA, hereby certify that the forgoing is a true and correct copy of a Resolution duly adopted by a majority vote of the _____ (Governing Body) at a regular meeting held _____ (Date) and said Resolution has been recorded in the Minutes of the _____ (Applicant) and remains in effect as of this date.

IN WITNESS THEREOF, I affix my hand and attach the seal of the _____ (Applicant), this _____ day of _____, 20____.

Name of Applicant

County

Secretary