

Tuesday, February 7, 2023

10:15 AM

or immediately following the regular board meeting

*Meeting to be held in the County Board Room
at the Historic Courthouse, 215 1st Ave S, Long Prairie, MN.*

MEETING WILL BE LIVE-STREAMED AT: [HTTPS://WWW.CO.TODD.MN.US](https://www.co.todd.mn.us)

Agenda Item #

Agenda Time:

- | | | |
|----------|---|-------|
| 1 | Non DOT Drug and Alcohol Testing Policy
<i>Policies Committee</i> | 10:15 |
| 2 | Emergency SNAP Benefits & Continuing Benefits Ending
<i>Lisa/Laura/Steven, HHS Division</i> | 10:20 |
| 3 | SSTS Grant Opportunity
<i>Adam Ossefoort, PZ/SWCD Division Director</i> | 10:35 |
| 4 | SSTS Ordinance Amendments
<i>Adam Ossefoort, PZ/SWCD Division Director</i> | 10:40 |

Section 8.10 Non-DOT Drug and Alcohol Testing Policy

(a) Purpose

Todd County has a vital interest in maintaining safe, healthful, and efficient working conditions for employees, and recognizes that individuals who are impaired because of drugs and/or alcohol jeopardize the safety and health of other workers as well as themselves. Todd County does not intend to intrude into the private lives of its employees, but strongly believes that a drug- and alcohol-free workplace is in the best interest of employees and the public alike. Alcohol and drug abuse can cause unsatisfactory job performance, increased tardiness and absenteeism, increased accidents and workers' compensation claims, higher insurance rates, and an increase in theft of County property. Todd County's Non-DOT Drug and Alcohol Testing policy has been established for the purpose of providing a safe workplace for all.

County employees and applicants required to hold a commercial driver's license by the United States Department of Transportation ("DOT") for their job will be tested under the County's Drug and Alcohol Testing Policy for Commercial Drivers (the "DOT Policy"). All other employees and job applicants offered employment with the County must undergo testing as described by this policy.

To ensure the policy is clearly communicated to all employees and applicants to whom offers of employment have been made, and to comply with state law, employees and applicants are required to review this policy and sign the "policy acknowledgement." A job applicant will also acknowledge in this form that he/she understands that passing the drug test is a requirement of the job.

Persons Subject to Testing and Circumstances Under Which Testing May Be Required

Under this policy, the County shall test any external applicant to whom an offer of employment has been made and shall test any employee for alcohol and/or drugs under any of the following circumstances with a properly accredited or licensed testing laboratory, in accordance with [Minn. Stat. § 181.953, subd. 1.](#)

(1) Pre-Employment Testing:

Every external job applicant offered employment with the County receives the offer conditioned upon successful completion of an alcohol and/or drug test, among other conditions. If the job offer is withdrawn based on alcohol and/or drug test results, the County will inform the applicant of the reasons for the withdrawal. A failure of the alcohol and/or drug test, a refusal to take the test, or failure to meet other conditions of the offer will result in a withdrawal of the offer of employment even if the applicant's provisional employment has begun. A negative or positive dilute test result (following a second collection), which has been confirmed, will also result in immediate withdrawal of an offer of employment to an applicant.

Temporary and seasonal employees are also subject to this policy. Temporary and seasonal rehires will be required to drug test if it has been at least one year from the date of their last drug screen.

(2) Reasonable Suspicion Testing:

Consistent with [Minn. Stat. § 181.951, subd. 5](#), employees may be subject to alcohol and/or drug testing when reasonable suspicion exists to believe that the employee:

- Is under the influence of alcohol or a drug; or
- Has violated written work rules prohibiting the use, possession, sale or transfer of drugs or alcohol while working, while on County property, or while operating County vehicles, machinery or any other type of equipment; or
- Has sustained a personal injury as defined in [Minn. Stat. § 176.011, subd. 16](#) or has caused another employee to sustain an injury or;
- Has caused a work-related accident or was operating or helping to operate machinery, equipment, or vehicles involved in a work-related accident.

Reasonable suspicion may be based upon, but is not limited to, facts regarding appearance, behavior, speech, breath, odor, possession, proximity to or use of alcohol or drugs or containers or paraphernalia, poor safety record, excessive absenteeism, impairment of job performance, or any other circumstances that would cause a reasonable employer to believe that a violation of the County's policies concerning alcohol or drugs may have occurred. These observations will be reflected in writing on a Reasonable Suspicion Record Form.

For off-site collection, employees will be driven to the employer-approved medical facility by their supervisor or a designee.

Pursuant to the requirements of the Drug-Free Workplace Act of 1988, all County employees, as a condition of continued employment, will agree to abide by the terms of this policy and must notify the County Coordinator or designated representative of any criminal drug statute conviction for a violation occurring in the workplace not later than five days after such conviction. If required by law or government contract, the County will notify the appropriate federal agency of such conviction within 10 days of receiving notice from the employee.

(3) Treatment Program Testing:

In accordance with [Minn. Stat. § 181.951, subd. 6](#), the County may request or require an employee to undergo drug and alcohol testing if the employee has been referred by the County for chemical dependency treatment or evaluation or is participating in a chemical dependency treatment program under an employee benefit plan. In such a case, the employee may be requested or required to undergo drug or alcohol testing without prior notice during the evaluation or treatment period and for a period of up to two years following completion of any prescribed chemical dependency treatment program.

Right of Refusal:

Employees and job applicants have the right to refuse to submit to an alcohol and/or drug test under this policy. However, such a refusal will subject an employee to immediate termination. If an applicant refuses to submit to applicant testing, any conditional offer of employment will be withdrawn.

Any intentional act or omission by the employee or applicant that prevents the completion of the testing process constitutes a refusal to test.

An applicant or employee who substitutes, or attempts to substitute, or alters, or attempts to alter a testing sample is considered to have refused to take a drug and/or alcohol test. In such a case, the employee is subject to immediate termination of employment, and in the case of an applicant, the job offer will be immediately withdrawn.

Refusal on Religious Grounds:

An employee or job applicant who, on religious grounds, refuses to undergo drug and/or alcohol testing of a blood sample will not be considered to have refused testing, unless the employee or job applicant also refuses to undergo drug and/or alcohol testing of a urine sample.

Cost of Required Testing:

The County will pay for the cost of all drug and/or alcohol testing requested or required of all job applicants and employees, except for confirmatory retests. Job applicants and employees are responsible for paying for all costs associated with any requested confirmatory retests.

Prohibition against Drugs and Alcohol

Use and Possession of Alcohol or Drug(s):

Employees are prohibited from the use, possession, transfer, transportation, manufacture, distribution, sale, purchase, solicitation to sell or purchase, or dispensation of alcohol, drugs, or drug paraphernalia while on duty; is on County premises; while operating any County vehicle, machinery, or equipment; or when performing any County business, except (1) pursuant to a valid medical prescription used as properly instructed; (2) the use of over-the-counter drugs used as intended by the manufacturer; or (3) when necessary for approved law enforcement activity.

Besides having a zero-tolerance policy for the use or possession of alcohol, illegal drugs, or misused prescription drugs on the worksite, we also prohibit the use, possession of, impairment by any cannabis or medical cannabis products (e.g., hash oils, edibles or beverages containing cannabinoids, or pills) on the worksite by a person working as an employee at the County or while “on call” and subject to return to work. Having a medical marijuana card, patient registry number, and/or cannabis prescription from a physician does not allow anyone to use, possess, or be impaired by that drug here. Likewise, the fact that cannabinoids may be lawfully purchased and consumed in some circumstances does not permit anyone to use, possess, or be impaired by them here. The federal government still classifies cannabis as an illegal drug, even though some states, including Minnesota, have decriminalized its possession and use in certain circumstances. There is no acceptable concentration of marijuana metabolites in the blood or urine of an employee who operates our equipment or vehicles or who is on one of our worksites. Applicants and employees are still subject to being tested under our drug and alcohol testing policy. And employees are subject to being disciplined, suspended, or terminated after testing positive for cannabis if the employee used, possessed, or was impaired by cannabis, including medical cannabis, while on the premises of the place of employment or during the hours of employment.

While Impaired of Alcohol or Drug(s):

Employees are prohibited from being under the influence of alcohol or drugs or having a detectable amount of an illegal drug in the blood or urine when reporting for work; while on duty; is on the County’s premises; while operating any County vehicle, machinery, or

equipment; or when performing any County business, except (1) pursuant to a valid medical prescription used as properly instructed; or (2) the use of over-the-counter drug used as intended by the manufacturer.

Driving While Impaired:

A conviction of driving while impaired in a County-owned vehicle at any time during business or non-business hours, or in an employee-owned vehicle while conducting County business, may result in discipline, up to and including discharge.

Criminal Drug Convictions:

Any employee convicted of any criminal drug statute must notify his or her supervisor and the County Coordinator or designated representative in writing of such conviction no later than five days after such conviction. Within 30 days after receiving notice from an employee of a drug-related conviction, the County will take appropriate personnel action against the employee up to and including discharge or require the employee to satisfactorily participate in a drug abuse assistance or rehabilitation program as an alternative to termination. In the event notice is not provided to the supervisor and County Coordinator and the employee is deemed to be incapable of working safely, the employee will not be permitted to work and will be subject to disciplinary action, including dismissal from employment. In accordance with the Federal Drug-Free Workplace Act of 1988, if the County is receiving federal grants or contracts of over \$25,000, the County will notify the appropriate federal agency of such conviction within 10 days of receiving notice from the employee.

Failure to Disclose Lawful Drugs:

Employees taking a lawful drug, including prescription and over-the-counter drugs, which may impair their ability to perform their job responsibilities or pose a safety risk to themselves or others, must advise their supervisor of this before beginning work. It is the employee's responsibility to seek out written information from his/her physician or pharmacist regarding medication and any job performance impairment and relay that information to his/her supervisor. In the event of such a disclosure, the employee will not be authorized to perform safety-sensitive functions.

Review and Notification of Test Results

Notification of Negative Test Results:

In the case of job applicants and in accordance with Minn. Stat. § 181.953, Human Resources will notify a job applicant of a negative drug result within three days of receipt of result by the County, and the hiring process will resume. In accordance with Minn. Stat. § 181.953, subd. 3, a laboratory must report results to the County within three working days of the confirmatory test result. A "Negative Test Results Notification" form will be sent to the job applicant, and the job applicant may request a copy of the test result report from Human Resources.

In the case of current employees and in accordance with [Minn. Stat. § 181.953](#), Human Resources will notify the employee of a negative drug and/or alcohol result within three days of receipt of result by the County. A "Negative Test Results Notification" form will be sent to the employee, and he or she may request a copy of the test result report from Human Resources.

Notification of Positive Test Results:

In the event of a confirmed positive blood or urine alcohol and/or drug test result, the County will notify the employee of a positive drug and/or alcohol result within three days of receipt of the result. The Human Resources Manager will send to the employee or job applicant a “Positive Test Results Notification” letter containing further instructions. The employee or job applicant may contact Human Resources to request a copy of the test result report if desired. In accordance with [Minn. Stat. § 181.953, subd. 3](#), a laboratory must report results to the County within three working days of the confirmatory test result.

Right to Provide Information after Receiving Test Results:

Within three working days after notice of a positive drug or alcohol test result on a confirmatory test, the employee or job applicant may submit information to the County to explain the positive result. In accordance with [Minn. Stat. § 181.953, subd. 10](#), if an employee submits information either before a test or within three working days after a positive test result that explains the positive test result, (such as medications the employee is taking), the County will not take an adverse employment action based on that information unless the employee has already been under an affirmative duty to provide the information before, upon, or after hire.

Right to Confirmatory Retest:

A job applicant or employee may request a confirmatory retest of the original sample at the job applicant’s or employee’s own expense after notice of a positive test result on a confirmatory test. Within five working days after notice of the confirmatory test result, the job applicant or employee must notify the County in writing of the job applicant’s or employee’s intention to obtain a confirmatory retest. Within three working days after receipt of the notice, the County will notify the original testing laboratory that the job applicant or employee has requested the laboratory to conduct the confirmatory retest or transfer the sample to another qualified laboratory licensed to conduct the confirmatory retest. The original testing laboratory will ensure the control and custody procedures are followed during transfer of the sample to the other laboratory. In accordance with [Minn. Stat. § 181.953, subd. 3](#), the laboratory is required to maintain all samples testing positive for a period of six months. The confirmatory retest will use the same drug and/or alcohol threshold detection levels as used in the original confirmatory test.

In the case of job applicants, if the confirmatory retest does not confirm the original positive test result, the County’s job offer will be reinstated, and the County will reimburse the job applicant for the actual cost of the confirmatory retest. In the case of employees, if the confirmatory retest does not confirm the original positive test result, no adverse personnel action based on the original confirmatory test will be taken against the employee, the employee will be reinstated with any lost wages or salary for time lost pending the outcome of the confirmatory retest result, and the County will reimburse the employee for the actual cost of the confirmatory retest.

Access to Reports:

In accordance with [Minn. Stat. § 181.953, subd. 10](#), an employee will have access to information contained in his or her personnel file relating to positive test results and to the testing process, including all information gathered as part of that process.

Dilute Specimens:

A negative or positive dilute test result (following a second collection) which has been confirmed will subject an employee to immediate termination.

Consequences for Employees Engaging in Prohibited Conduct

Job Applicants:

The County's conditional offer of employment will be withdrawn from any job applicant who refuses to be tested or tests positive for illegal drugs as verified by a confirmatory test.

Employees:

- **No Adverse Action without Confirmatory Test.** The County will not discharge, discipline, discriminate against, or request or require rehabilitation of an employee based on a positive test result from an initial screening test that has not been verified by a confirmatory test.
- **Suspension Pending Test Result.** The County may temporarily suspend a tested employee with or without pay or transfer that employee to another position at the same rate of pay pending the outcome of the requested confirmatory retest, provided the County believes that it is reasonably necessary to protect the health or safety of the employee, co-employees, or the public. The employee will be asked to return home and will be provided appropriate arrangements for return transportation to his or her residence. In accordance with [Minn. Stat. § 181.953, subd. 10](#), an employee who has been suspended without pay will be reinstated with back pay if the outcome of the requested confirmatory retest is negative.

Discipline and Discharge:

Confirmatory Positive Test Result:

The County will not discharge an employee for a first confirmatory positive test unless the following conditions have been met:

- The County has first given the employee an opportunity to participate in either a drug or alcohol counseling or rehabilitation program, whichever is more appropriate, as determined by the County after consultation with a certified chemical use counselor or physician trained in the diagnosis and treatment of chemical dependency. Participation by the employee in any recommended substance abuse treatment program will be at the employee's own expense or pursuant to the coverage under an employee benefit plan. The certified chemical use counselor or physician trained in the diagnoses and treatment of chemical dependency will determine if the employee has followed the rehabilitation program as prescribed; and
- The employee has either refused to participate in the counseling or rehabilitation program or has failed to successfully complete the program, as evidenced by withdrawal from the program before its completion or by a refusal to test or positive test result on a confirmatory test after completion of the program.

Other Misconduct:

Nothing in this policy limits the right of the County to discipline or dismiss an employee on grounds other than a positive confirmatory test result, including conviction of any criminal drug statute for a violation occurring in the workplace or violation of other County personnel policies.

Emergency Call Back to Work Provisions:

If an employee is called out for a County emergency and he or she reports to work and is suspected of being under the influence of drugs or alcohol, he or she will not be subject to the testing procedures of this policy but may be subject to discipline and will not be allowed to work. Appropriate arrangements for return transportation to the employee's residence will be made. It is the sole responsibility of the employee who is under the influence of alcohol and/or drugs and who is called out for a County emergency, to notify his or her supervisor of this information and advise if he or she is unable to respond to the emergency call back.

Non-Discrimination

The Todd County policy on work-related substance abuse is non-discriminatory in intent and application; however, in accordance with Minn. Stat., ch. 363, disability does not include conditions resulting from alcohol or other drug abuse which prevents an employee from performing the essential functions of the job in question or constitutes a direct threat to property or the safety of individuals.

Furthermore, the County will not retaliate against any employee for asserting his or her rights under this policy.

County's Employee Assistance Program

The County has in place a formal employee assistance program (EAP) to assist employees in addressing serious personal or work-related problems at any time. The County's EAP provides confidential, cost-free, short-term counseling to employees and their families. Employees who may have an alcohol or other drug abuse problem are encouraged to seek assistance before a problem affects their employment status. Employee assistance program services are available by contacting Minnesota Counties Intergovernmental Trust at 1-800-550-6248.

Policy Contact for Additional Information

If you have any questions about this policy or the County's drug and alcohol testing procedures, you may contact your immediate supervisor, Human Resources Manager, or the County Coordinator to obtain additional information.

By this policy, Todd County has established a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace and its policy of maintaining a drug-free workplace. Each County employee will receive a copy of this policy and will be required to read it.

Definitions

Alcohol: Means the intoxicating agent in beverage alcohol or any low molecular weight alcohols such as ethyl, methyl, or isopropyl alcohol. The term includes but is not limited to beer, wine, spirits, and medications such as cough syrup that contain alcohol.

Alcohol use or usage: Means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

Applicant: Means a person applying for a job with the County.

Collection site: Means a place designated by the County where job applicants and employees present themselves for the purpose of providing a specimen of their breath, urine, and/or blood to be analyzed for the presence of drugs and alcohol.

Confirmatory test: Means a drug and/or alcohol test on a sample to substantiate the results of a prior drug and/or alcohol test on the same sample, and that uses a method of analysis allowed under one of the programs listed in [Minn. Stat. § 181.953, subd. 1](#).

County: Means the County of Todd.

County premises: Means, but is not limited to, all County job sites and work areas. For the purposes of this policy, County premises also includes any other locations or modes of transportation to and from those locations while in the course and scope of employment of the County.

County vehicle: Means any vehicle which employees are authorized to use solely for County business when used at any time; or any vehicle owned or leased by the County when used for County business.

Designated Representative: For the purposes of this policy, when the County Coordinator is not available the Human Resources Manager serves as Designated Representative.

Drug: Includes any “controlled substance” as defined in [Minn. Stat. § 152.01, subd. 4](#), and also includes all cannabinoids, including those that are lawfully available for public consumption that do not otherwise qualify as being a “controlled substance” as defined in [Minn. Stat. § 152.01, subd. 4](#).

Drug and/or alcohol testing, and drug and/or alcohol test: Mean analysis of a body component sample according to the standards established under one of the programs listed in [Minn. Stat. § 181.953, subd. 1](#), for the purpose of measuring their presence or absence of drugs, alcohol, or their metabolites in the sample tested.

Drug paraphernalia: Has the meaning set forth in [Minn. Stat. § 152.01, subd. 18](#)

Employee: Means a person who performs services for compensation for the County and includes independent contractors except where specifically noted in this policy.

Initial screening test: Means a drug and/or alcohol test that uses a method of analysis under one of the programs listed in [Minn. Stat. § 181.953, subd. 1](#).

Job applicant: Means a person who applies to become an employee of the County and includes a person who has received a job offer made contingent on the person passing drug testing.

Positive test result: Means a finding of the presence of alcohol, drugs, or their metabolites that exceeds the cutoff levels. Minimum threshold detection levels are subject to change as determined in the County’s sole discretion.

Reasonable suspicion: Means a basis for forming a belief based on specific facts and rational inferences drawn from those facts.

Safety-sensitive position: Means a job, including any supervisory or management position, in which an impairment caused by drug and/or alcohol usage would threaten the health or safety of any person.

Under the influence: Means (1) the employee tests positive for alcohol or drugs, or (2) the employee's actions, appearance, speech, and/or bodily odors reasonably cause the County to conclude that the employee is impaired because of illegal drug use or alcohol use.

Replacing Failing Septic Systems to Protect Groundwater Request for Proposals (RFP)

The RFP assists applicants in applying for state grants. This document describes the Replacing Failing Septic Systems to Protect Groundwater RFP, including information on who may apply for funding, priorities, activities eligible for funding and other information that will help the applicants plan their project and submit a competitive application. Applications are due no later than **Tuesday, March 7, 2023, 4:00 PM Central Time (CT)**.

The applicant should check the [SWIFT Supplier Portal](#) for any updates, including questions and answers and addendums.

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The Grant application form, Appendix, Census Tract Data Spreadsheet, and Sample Grant agreement can be found in the [SWIFT Supplier Portal](#).

1. Project overview

The MPCA will distribute grants to county Subsurface Sewage Treatment System (SSTS) programs. Those County programs will then locate low-income landowners, within the county jurisdiction, with septic systems that are considered Imminent Threats to Public Health and Safety (ITPHS) or Failing to Protect Groundwater (FTPGW) (Minn. R. 7080.1500 subp. 4) and distribute fix-up grants.

This project was funded via [Minnesota Session Laws 2022, Chp. 94](#), Sec. 2, Subd. 10h:

“\$2,000,000 the second year is from the trust fund to the commissioner of the Pollution Control Agency to counties for grants to low-income landowners to address septic systems that pose an imminent threat to public health or safety or fail to protect groundwater.”

This funding will allow counties to apply for larger amounts of low-income grant money than are normally available through existing low-income grant programs and subsequently upgrade, or fix, a greater number of

noncompliant SSTS, owned by low-income landowners, within the county. Grants may be awarded without a list of specific noncompliant SSTS or properties and may be submitted for reimbursement by the county at any time within the duration of the grant period. Work on projects using these funds, and the corresponding reimbursement requests must be submitted to MPCA Accounts Payable and the MPCA Authorized Representative by May 31, 2025.

2. Funding

Maximum and minimum award

Maximum award is \$750,000

Minimum award is \$100,000. Applicants asking for less than the minimum will be deemed ineligible.

Match requirement

No match required

Payment schedule

Grant funding for eligible costs will be paid upon completion of individual SSTS installations with approved invoices. Final payments must be made by June 30, 2025, as such invoices submitted for approval will be due no later than May 31, 2025. Invoices are sent directly to MPCA Accounts Payable and copied to the MPCA Authorized Representative.

3. Eligible and ineligible applicants

Eligible applicants

Counties, with SSTS programs, in the State of Minnesota. This may include organizations, such as Soil and Water Conservation Districts (SWCD), that have been delegated countywide SSTS authority.

Ineligible applicants

- Local Governmental Units (LGU) responsible for SSTS permitting that are not responsible for the county SSTS program (e.g., Cities, Townships, Sewer Districts, etc.).
- Entities that are currently suspended or debarred by the State of Minnesota and/or the federal government are ineligible applicants.
- The MPCA may also deem an applicant ineligible because of, but not limited to: enforcement issues, labor standards, tax status, or other such issues.

4. Eligible and ineligible projects

Eligible projects

Projects that will distribute grant funding to low-income landowners with failing SSTS (ITPHS or FTPGW) as documented by an MPCA existing system compliance inspection. Specifically, only projects meeting all the following criteria are eligible for reimbursement:

- Properties where the landowner is low-income (using the county's chosen low-income thresholds)
- Homesteaded single-family homes or duplexes (clustered solutions are allowed)
- Properties with failing SSTS (ITPHS or FTPGW) as documented by an MPCA existing system compliance inspection (deemed noncompliant)

Ineligible projects

Projects that do not meet the eligible project requirements as listed above. Applications without all forms submitted will be deemed ineligible.

5. Eligible and ineligible costs

Eligible costs

Any cost that is directly related to the project and not deemed ineligible below or by MPCA staff.

Ineligible costs

Ineligible costs include costs that are not directly related to the project. The following costs, including but not limited to, even if they are directly related to the project, are ineligible:

- Grant and Contract administration costs by the County
- Wages and expenses of salaried County employees
- Wages and expenses of contracted County SSTS staff
- Fringe benefit expenses
- County equipment, tools, materials, and supplies
- Capital expenditures for facilities, equipment, and other capital assets
- Publication and printing/copying expenses
- In-state transportation and travel expenses such as lodging, meals, and mileage of County personnel directly involved in the Project
- Any expenses incurred before the contract is fully executed including applicant's expense for preparing the eligibility and cost applications
- Any expenses incurred during work plan application and final work plan development
- Bad debts, late payment fees, finance charges or contingency funds, interest, and investment management fees
- Attorney fees
- Engineering/consultant fees
- Employee worksite parking
- Lobbying, lobbyists and political contributions
- Mark-up on purchases and/or subcontracts
- Taxes, except sales tax on eligible equipment and expenses
- Activities associated with permit fees
- Activities addressing enforcement actions or that involve a financial penalty
- Memberships (including subscriptions and dues)
- Reimbursement to non-staff stakeholders for their attendance at stakeholder participation meetings
- Food (other than staff per diem)
- Alcoholic refreshments
- Entertainment, gifts, prizes and decorations
- Merit awards and bonuses
- Donations and fundraising
- Computer(s), tablets, and software, unless unique to the project and specifically approved by the MPCA as a direct expense
- Purchase or rental of mobile communication devices such as pagers, cell phones, and personal data assistants (PDAs), unless unique to the project and specifically approved by the MPCA.

6. Priorities

It is the policy of the State of Minnesota to ensure fairness, precision, equity and consistency in competitive grant awards. This includes implementing diversity and inclusion in grant-making. [The Policy on Rating Criteria for Competitive Grant Review](#) establishes the expectation that grant programs intentionally identify how the grant serves diverse populations, especially populations experiencing inequities and/or disparities.

The MPCA is committed to ensuring environmental and human health risks do not have a disproportionate impact on any group of people, the principle of environmental justice. This means that all people regardless of their race, color, national origin, or income benefit from equal levels of environmental protection and have opportunities to participate in decisions that may affect their environment or health. To learn more, visit: <https://www.pca.state.mn.us/about-mPCA/mpca-and-environmental-justice>.

Projects benefitting underserved communities and areas of concern for environmental justice will be rated higher. The MPCA considers communities with higher concentrations of low-income residents and people of color, including tribal communities, to be areas of concern for environmental justice. MPCA's criteria and interactive mapping tool can be found at [Understanding environmental justice in Minnesota \(arcgis.com\)](#).

7. Application instructions

All applicants must complete the grant application and submit all required information and forms. Applications without all forms submitted will be deemed ineligible.

8. Application submission instructions

Applications must be received electronically by the MPCA no later than **Tuesday, March 7, 2023, 4:00 PM CT**. Application submissions received after the deadline will not be considered eligible.

Applications must be submitted through the [SWIFT Supplier Portal](#). Note: The RFP is termed an "Event" within SWIFT. MPCA is not responsible for any errors or delays caused by technology-related issues.

Applicants do not need to log in to view the RFP and associated documents in the SWIFT system. Applicants interested in applying will need to register as a bidder in the system by clicking on the [SWIFT Supplier Portal](#), then *Register for an Account and Register as a Bidder*.

Note: If an applicant is already registered in the SWIFT system as a Supplier, they do not need to register as a bidder. They will need their Supplier ID.

Questions regarding submitting an application can be directed to the Vendor Assistance Help Desk at 651-201-8100, option 1 or by clicking on *Supplier Portal Help* within the [SWIFT Supplier Portal](#).

Applications submitted via any other method, including but not limited to email, fax, mail, in-person deliveries, will not be accepted.

9. Application questions

The MPCA is obligated to be transparent in all aspects surrounding grant work. To meet this obligation, all questions must be submitted in the same manner, and answers are only provided via the [SWIFT Supplier Portal](#). It is the applicant's responsibility to check the [SWIFT Supplier Portal](#) and the Minnesota Pollution Control Agency (MPCA) [Replacing Failing Septic Systems to Protect Groundwater webpage](#) for the most recent updates.

Applicants who have any questions regarding this RFP must email questions to grants.pca@state.mn.us, subject line: "**FFY 23 Replacing Failing Septic Systems**", no later than **Monday, February 27, 2023 at 4:00pm CT**. Answers to questions will be posted frequently in the [SWIFT Supplier Portal](#).

MPCA personnel are not authorized to discuss this RFP with applicants outside of the question and answer forum. Contact regarding this RFP with any MPCA personnel may result in disqualification.

10. Application review process

Formal review of applications will be conducted by a team of MPCA staff and community-based grant reviewers. Late proposals will not be considered for review.

In addition to the ability to partially award projects, the MPCA reserves the right to withdraw the award offer or refrain from awarding a grant in the event that program funding is made unavailable or none of the proposed projects meet the requirements of the grant. If the MPCA concludes that no project has sufficient potential to implement the desired environmental outcome in Minnesota, the MPCA may or may not reinstate the RFP process. In the event that additional funding is made available, the MPCA reserves the right to award additional grant funds to eligible applicants who were not originally funded.

In the event two applicants are tied and there isn't sufficient funding to award both projects, the MPCA will select the applicant with the highest score in the following criteria, in descending order, until a winner is able to be determined:

- Total project area low income (less than 185% of the federal poverty level) population located within EJ areas containing SSTS
- Number of "shovel-ready" projects

Notification

The MPCA anticipates notifying applicants of award status within six to eight weeks after closing of the application period. Applicants selected for funding will be contacted concerning the next steps in the award process, including execution of the appropriate agreements with follow-up by the grantee within a reasonable time frame.

11. Grantee responsibilities

Awardees are required to be a registered vendor in SWIFT and will sign the grant agreement using Docusign.

Grant agreement

Each awardee must enter into a grant agreement. The agreement will address the conditions of the award. Once the agreement is signed, the recipient is expected to comply with all conditions.

Attribution requirement

Landowner application forms must contain the Environment and Natural Resources Trust Fund Logo or attribution statement (logo and attribution language information located at - https://www.lccmr.mn.gov/pm_info/enrtf_acknowledgement_requirements_and_guidelines.pdf)

Reporting requirements

County reporting on completed projects, contract spending status, and Septic System Improvement Estimator results to date must be submitted to the MPCA Project Manager on the designated reporting form by the following dates:

- Calendar Year 2023 reporting to MPCA Project Manager is due by Feb. 28, 2024
- Calendar Year 2024 reporting to MPCA Project Manager is due by Feb. 28, 2025
- Final Project reporting to MPCA Project Manager is due by June 30, 2025

Grantees must also submit documentation, separate from the above annual reporting, to MPCA Accounts Payable for each system completed to be reimbursed for project costs. Email updates about the status of the project are required to be provided to the MPCA Authorized Representative whenever an invoice is submitted to MPCA Accounts Payable. The MPCA Authorized Representative will not approve an invoice through the state

system without this project update. Required documentation will be the verification of initial system status (Notice of Noncompliance showing ITPHS or FTPGW), documentation of project cost, amount of reimbursement funding requested (no greater than 100% of project cost), and final Certificate of Compliance demonstrating project completion.

Public data

Applications are private or nonpublic until opened. Once the applications are opened, the name and address of the applicant and the amount requested is public. All other data in an application is private or nonpublic data until all agreements are fully executed. After all agreements are fully executed, all remaining data in the applications is public with the exception of trade secret data as defined and classified in Minn. Stat. § 13.37. A statement by a grantee that the application is copyrighted or otherwise protected does not prevent public access to the application (Minn. Stat. § 13.599, subd. 3).

Conflict of interest

We will take steps to prevent individual and organizational conflicts of interest, both in reference to applicants and reviewers per [Minn. Stat. §16B.98](#) and [Conflict of Interest Policy for State Grant-Making](#).

Organizational conflicts of interest occur when:

- a grantee or applicant is unable or potentially unable to render impartial assistance or advice to the Department due to competing duties or loyalties
- a grantee's or applicant's objectivity in carrying out the grant is or might be otherwise impaired due to competing duties or loyalties

In cases where a conflict of interest is suspected, disclosed, or discovered, the applicants or grantees will be notified and actions may be pursued, including but not limited to disqualification from eligibility for the grant award or termination of the grant agreement.

Grant Monitoring

[Minn. Stat. §16B.97](#) and [Policy on Grant Monitoring](#) require the following:

- One monitoring visit during the grant period on all state grants of \$50,000 and higher
- Annual monitoring visits during the grant period on all grants of \$250,000 and higher
- Conducting a financial reconciliation of grantee's expenditures at least once during the grant period on grants of \$50,000 and higher. For this purpose, the grantee must make expense receipts, employee timesheets, invoices, and any other supporting documents available upon request by the State.

The monitoring schedule will be determined at a later date.

Grantee Bidding Requirements

Grantees that are municipalities must follow:

- The contracting and bidding requirements in the Uniform Municipal Contracting Law as defined in [Minn. Stat. §471.345](#)
- The requirements of prevailing wage for grant-funded projects that include construction work and have a total project cost of \$25,000 or more, per [Minn. Stat. §§177.41](#) through [177.44](#) These rules require that the wages of laborers and workers should be comparable to wages paid for similar work in the community as a whole.

The grantee must not contract with vendors who are suspended or debarred in MN:

<http://www.mmd.admin.state.mn.us/debarredreport.asp>

Audits

Per [Minn. Stat. § 16B.98](#) Subdivision 8, the grantee's books, records, documents, and accounting procedures and practices of the grantee or other party that are relevant to the grant or transaction are subject to examination by the granting agency and either the legislative auditor or the state auditor, as appropriate. This requirement

will last for a minimum of six years from the grant agreement end date, receipt, and approval of all final reports, or the required period of time to satisfy all state and program retention requirements, whichever is later.

Affirmative Action and Non-Discrimination requirements for all Grantees:

- A. The grantee agrees not to discriminate against any employee or applicant for employment because of race, color, creed, religion, national origin, sex, marital status, status in regard to public assistance, membership or activity in a local commission, disability, sexual orientation, or age in regard to any position for which the employee or applicant for employment is qualified. [Minn. Stat. §363A.02](#). The grantee agrees to take affirmative steps to employ, advance in employment, upgrade, train, and recruit minority persons, women, and persons with disabilities.
- B. The grantee must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The grantee agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Minnesota Rules, part [5000.3500](#).
- C. The grantee agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

Voter Registration Requirement:

The grantee will comply with [Minn. Stat. § 201.162](#) by providing voter registration services for its employees and for the public served by the grantee.

Exhibit A: Application evaluation score sheet

A 100 – point scale will be used to evaluate eligible applications and develop final recommendations.

Category and Point Assignment	Maximum points
<p>Project has clearly defined objectives, tasks that describe how those objectives will be met, and a realistic timeframe. (15 of 50 points)</p> <p>In addition to the 15 general project points, specific points in this category will be awarded for each of the following 3 criteria. Awarded amounts will be determined based on the explanation of how each of the categories will be targeted and prioritized (include in overall project narrative) -</p> <ul style="list-style-type: none"> • Project targets areas of concern for environmental justice. (15 of 50 points) • Project targets watershed Assessment Units (AUID) with identified Escherichia coli (E. coli), fecal coliform, or nutrient surface water impairments. (10 of 50 points) • Project targets SSTS Area or Community of Concern as previously identified by the County in MPCA reporting. (10 of 50 points) 	50
<p>Total project area low income (less than 185% of the federal poverty level) population located within EJ areas containing SSTS.</p> <ul style="list-style-type: none"> • Population ≤1,000 – 2 Points • Population 1,001 – 2,000 - 4 Points • Population 2,001 – 4,000 - 6 Points • Population 4,001 – 8,000 - 8 Points • Population >8,000 – 10 Points 	10
<p>Total number of low-income landowner SSTS fixes proposed to be completed with this funding.</p> <ul style="list-style-type: none"> • 1-5 fixes – 2 Points • 6-10 fixes – 4 Points • 11-15 fixes – 6 Points • 16-30 fixes – 8 Points • 31+ fixes – 10 Points 	10
<p>Number of “shovel-ready” SSTS construction projects identified in application (i.e. homeowners have been identified as low-income, previous SSTS has been deemed an ITPHS or FTPGW, design submitted and construction permit granted).</p> <ul style="list-style-type: none"> • 2 points per project (maximum 10 points) 	10
<p>Number of watershed Assessment Units (AUID) with identified Escherichia coli (E. coli), fecal coliform, or nutrient surface water impairments is encompassed by, or contained by the project boundary. (MPCA impaired waters and watersheds can be identified at - https://www.pca.state.mn.us/air-water-land-climate/minnesotas-impaired-waters-list)</p> <ul style="list-style-type: none"> • 0-4 AUID – 1 Points • 5-9 AUID – 2 Points • 10-20 AUID – 3 Points • 21-35 AUID – 4 Points • 36+ AUID – 5 Points 	5
<p>Number of dwellings/residences within the County located within an SSTS Area or Community of Concern as previously identified by the County in MPCA reporting.</p> <ul style="list-style-type: none"> • 0-19 dwellings/residences – 1 Point • 20-99 dwellings/residences – 2 Points 	5

<ul style="list-style-type: none"> • 100-300 dwellings/residences – 3 Points • 301- 999 dwellings/residences – 4 Points • 1000+ dwellings/residences – 5 Points 	
County Employees, or county hired contractors, that will complete LGU work on the project are well-qualified for their roles with the knowledge, skills and abilities to carry out the project successfully	5
<p>Number of SSTS upgrades completed with previous low-income distributions (Clean Water Funds via Natural Resources Block Grants distributed by Minnesota Board of Soil and Water Resources)</p> <ul style="list-style-type: none"> • 1-13 upgrades – 1 Point • 14-26 upgrades – 2 Points • 27-38 upgrades – 3 Points • 39-52 upgrades – 4 Points • 53+ – 5 Points 	5
Total score	100