

Attachment B

State of Vermont
Agency of Natural Resources
Department of Environmental Conservation

Procedure:	Vermont Water Infrastructure Sponsorship Program (WISPr)	Effective Date:	12/7/2018
Applicable To:	Department of Environmental Conservation	Revision Date:	XX/XX/XXXX
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Procedure Objective

To outline policy and procedure surrounding the state of Vermont Clean Water State Revolving Fund (CWSRF) sponsorship program, Vermont Water Infrastructure Sponsorship Program (WISPr). This program was authorized under Act 185 and described in 24 VSA Chapter 120 4752 as: “*an arrangement in which natural resource projects are paired with water pollution abatement and control facilities projects, as defined in 10. V.S.A. 1571 for the purposes of water quality improvement. Under the sponsorship program, a municipality may obtain a loan for both a natural resources project and a water pollution abatement and control facilities project. The loan rate and terms shall be adjusted to forgive all or a portion of the natural resources project over the life of the loan. Only municipalities and nonprofit organizations may receive funds under a sponsorship program.*”

Background

WISPr is intended to address a limited and under-assisted category of water resource needs in Vermont known as natural resource projects. While significant progress has been made in reducing the impacts of municipal wastewater treatment on water quality, the best available data indicates that impacts from nonpoint source runoff, habitat degradation, and watershed disturbances may be impeding overall rates of water resource improvements. The goal of WISPr is to counter the loss of ecological function and biological diversity that jeopardize the health of Vermont’s water resources. This program will achieve this goal by providing funds to finance the implementation of natural resource projects that protect or restore water resources.

Impacted Departments or Divisions

Staff within the Facilities Engineering Division and Watershed Management Division.

Governing Documents

Environmental Protection Rule Chapter 2, Municipal Pollution Control Priority System

Roles of Implementers and Sponsors:

Municipalities that apply for CWSRF loans are eligible to participate in WISPr by undertaking natural resource projects themselves or by sponsoring an approved project that is undertaken by a nonprofit entity. For purposes of this policy, the “sponsor” is the municipality that is applying for the traditional water pollution abatement and control facility project and the implementer will refer to the entity (either municipal or nonprofit) that will undertake construction, legal control, and long-term operation and maintenance of the natural resource project.

Sponsoring project types:

Water pollution abatement and control facilities projects are defined as eligible projects for the purposes of sponsoring natural resource projects. Water pollution abatement and control facilities projects, also referred to as “traditional” projects, may involve a number of project types. For example, any project that intends the prevention, management, treatment, storage, or disposal of:

- Stormwater
 - Gray Infrastructure:
 - Traditional pipe, storage, and treatment systems
 - Green Stormwater Infrastructure (GSI):
 - Rainwater harvesting
 - Bioswales
 - Green roofs, streets, parking
 - Pervious pavement
- Sewage
 - Wastewater treatment facility (WWTF) refurbishments or upgrades
 - Filtration or disinfection
 - Decentralized (soil-based) systems
- Combined Sewer Overflows (CSOs)
 - Separation of sanitary and storm sewer
 - Downspout disconnection

WISPr Project Types:

WISPR financial arrangements must be between a municipality or nonprofit organization or may be municipally owned sponsorship projects. Natural resource projects are defined as a project to protect, conserve, or restore natural resources, including the acquisition of easements and land for the purposes of providing water quality benefits (24 VSA Chapter 120 4752).

All activities to be undertaken through WISPr must focus on biological habitat issues or restoration of floodplains, rivers/streams, lakeshore, wetlands, and forest lands to natural conditions that prevent and abate nutrient and sediment pollution and may range from the preservation and protection of stream, wetlands and other aquatic habitats for repair and recovery of such impaired habitats. This funding cannot be used for activities outside the water-quality related goals of either preservation or restoration.

In accordance with DEC's Clean Water Initiative Program (CWIP) Ecosystem Restoration Grants Application Manual, WISPr will consider the following projects eligible for funding:

Eligible Natural Resource Projects
Wetland restoration projects
Floodplain/stream restoration
River corridor easements
Woody buffer plantings
Lake shoreland retrofit, erosion repair using LakeWise principles
Dam Removal

Financial Arrangement of Sponsorship:

1. A municipality will identify sponsoring to sponsored projects at the approximate 10:1 ratio. For example, a \$1M pipe replacement project can sponsor up to a \$100,000 land conservation project.
2. The municipality will receive one loan for both projects. In the example given above, the loan will be for a total of \$1.1M.
3. The administrative fee rate will be reduced until the amortization schedule would effectively “forgive” the equivalent of the sponsored project amount. In the example given above, the loan would be reduced to a 1% administrative fee rate.

Eligibility Determination for WISPr Projects:

CWSRF staff will consider the following criteria when reviewing the eligibility of a natural resources project. An eligible project must be able to demonstrate:

1. That the project will provide, either by itself or in conjunction with other projects that are committed to be undertaken, protection, enhancement, or restoration of water quality sufficient to meet or protect the designated uses of the benefited water resource.
2. That the project will implement Vermont's Nonpoint Source Management Plan.
3. That the project represents a long-term solution to the identified problems and the cost of the activity is reasonable considering monetary and non-monetary factors.
4. That there are no negative impacts that would be caused by the project. All DEC clean water funds have a goal to avoid negative, long-term impacts to natural

- resources. “Long-term” is defined as any period of time that extends beyond the construction or installation of the practice.
5. The program will not fund projects that are to be completed as part of a consent decree or other enforcement action.

WISPr Eligible Costs

The following eligibilities may apply to the natural resources project:

- All costs involved in acquisition of the property, if applicable, including:
 - Fee simple or easement costs
 - Closing costs
 - Title search
 - Environmental Assessments
- All costs related to planning or final design preparation
- Habitat restoration costs:
 - Initial site preparation/final site stabilization
 - Spoil material removal/disposal
 - Material acquisition/placement
 - Dam or other major structure removal
 - Plant material purchase/installation
- Project Management, administrative, and legal fees
 - Some organizations have operating budgets which include administrative staff to manage the day-to-day operation of the organization and provide support for the planning and construction projects. WISPr funds should not be used to reimburse organizations for project related expenditures which are funded in routine operating budgets.
 - Similarly, it is not appropriate or eligible to use WISPr funds to reimburse for services which are routinely provided at no cost by a third party.
 - Projects will be eligible for planning funding once purchase option agreements or written project commitment by landowners. These commitments must be reviewed and approved by the Department.
 - The Implementer may obtain project management services from an external organization or from their workforce. These services include management of project finances, income surveys, records maintenance, environmental review documentation, loan preparation and submittal, and management of professional engineering contracts. These types of expenses are WISPr eligible.
 - The types of project management services identified above require documentation which includes, as appropriate, identification of the services being provided, a listing of the deliverables, rates and fee schedules and level of effort estimate.
 - Permitting
 - Legal services
 - Required surveys

Please note that eligibility determinations are made by FED staff and are subject to their approval. Costs must have direct tie to the proposed natural resource project.

Implementer's Planning Cycle

1. At least annually, the WISPr program will solicit applications for natural resource projects that are in the planning stages. The program will compile a list of ranked projects that wish to pursue sponsorship planning funds, as well as projects that are self-funding the planning phase.
2. These lists will be distributed at IUP priority list solicitations and amendments and will also be maintained on the program website.
3. Once projects have hit the required milestones, have been reviewed and approved, they will be placed on a second list of projects that are ready to be matched, ranked, and awarded with a project sponsor.
4. Milestones that must be met in order to move from the planning to match-ready list include:
 - a. Environmental approval
 - b. Purchase option agreements
 - c. Planning and final design approval, if applicable, by the FED engineering staff
5. If a project has not advanced to the point of meeting these milestones within 5 years of planning loan execution, it will be removed from funding consideration.
6. During any given program year there will be two groups of WISPr projects—those that are planning and those that have completed their planning and other program requirements and are awaiting their sponsoring project.
7. WISPr staff will strive to maintain

Prioritization and Ranking of WISPr Projects:

Municipalities interested in the sponsorship program will need to submit a priority list application for ranking and prioritization. The following conditions will apply:

1. Both the traditional and natural resources projects will be submitted and ranked together under one priority list application. This provides ranking benefits to both the traditional and natural resources as it is likely to result in additional pollution control grant eligibility percentages for the traditional project. For more information, see Chapter 2.
2. In addition, a Letter of Intent must be completed and signed by a majority of the governing bodies of both the Sponsor and Implementer.
3. The Ch. 2 priority ranking criteria will be applied as one project and points will be cumulative. For example, a pipe project will receive a set number of priority points. However, when combined into one application with a sponsored project, for example, the land conservation project, the total project will receive additional ranking points for additional criteria.
4. The CWSRF has a goal to identify and fund 10% of the federal capitalization grant for green projects, also known as green project reserve (GPR). In recent

years, EPA has encouraged programs to identify a much greater percentage of projects as project plans may change and green component amount may also change. In addition, Ch. 2 gives the program authority to first fund green projects in order to achieve these federal requirements. The program will elevate the natural resources projects as the highest priority green project. To ensure that the goal is met, an amount equal to 150% of the required federal minimum will receive elevated priority above other green projects. The program will outline specific dollar amounts in each year's intended use plan (IUP) and this goal may increase or decrease depending on each year's needs and fund sustainability.

5. Each year's IUP will identify the dollar amount to dedicate toward the sponsorship program.
6. Once the IUP is established, sponsorship projects may be bypassed, similar to other projects that are not ready to proceed. Bypass determinations will be made based on the readiness of the sponsoring project's readiness to proceed (See Readiness to Proceed Guidance Document #4).

Funding Application:

Once the IUP and Priority List are adopted, the CWSRF program will notify projects of funds availability and key readiness to proceed deadlines that must be met to ensure funding. To proceed to an executed loan agreement, the following steps should be followed:

1. A bond counsel opinion letter stating both projects are consistent with statute.
2. A completed Sponsorship Agreement detailing the arrangement between Project Sponsor and Implementer as well as purchase and sales agreements for any third-party landowners.
3. Operation and Maintenance Plan and letter of commitment from Implementer (see below).

Upon execution of a loan agreement, any previously disbursed project development funds that are also CWSRF eligible will be reimbursed to the VEDA project fund. This will ensure adequate available funding for projects.

Timing of Both Projects:

As there will be one loan agreement for multiple projects, the timing of project completion is critical for ensuring a viable sponsorship program. The program will enforce timing of the projects as such:

1. The sponsoring project's final completion date governs the repayment start date.
2. It is the policy of the program that loans begin repayment one year after final completion, as identified in the balancing change order for the sponsoring project.
3. The sponsored project must reach final completion and have submitted for final disbursement prior to the sponsoring project's initial repayment date.

Municipal Bonding Requirements:

Act 185 allowed the governing body the authority to participate in the sponsorship program without formal voter authorization provided that:

- The amount of the debt incurred for the natural resource project does not exceed an amount to be forgiven or cancelled upon the completion of the project, and
- The municipality obtains voter approval for the water pollution abatement and control facilities project (the sponsoring project).

The program has a responsibility to ensure that this exemption only be applied to an amount that will be forgiven. Given the variable nature of projects and potential challenges in timing, the program will take the following steps:

1. An initial loan agreement and draft amortization schedule will be completed, assuming the projects proceed according to the schedule and that 100% of the sponsored project will be forgiven. The agreement will include language in the case of default of the agreed upon sponsorship schedule
2. In the case where either project is unable to proceed according to schedule, regardless of fault, the loan agreement will default to a non-sponsorship program loan agreement and the municipality will repay at the standard CWSRF administrative rate. Any funds previously disbursed to the sponsored project will be forgiven and attempts will be made to secure additional financing to finalize the project.
3. Additionally, the sponsoring project may come in under budget. In order to offer predictable financing for the sponsored project, the Program will honor the originally proposed forgiveness amount and will adjust the administrative rate to cover 100% of the natural resources project. In the previous example, if the \$1M project ended as a \$800,000, the administrative rate will be reduced to forgive the full \$100,000.

Federal Crosscutter Requirements for Sponsored Projects:

As of September 2017, Vermont CWSRF adopted its Treatment Works Policy, wherein it defined which project types would be considered treatment works versus non-treatment works. Based on that policy, the sponsored natural resources projects will be considered non-treatment works projects. This means these projects are exempt from the following federal crosscutters:

- American Iron & Steel
- Davis Bacon Wage Act
- Fiscal Sustainability Planning

It should be noted that all other crosscutters are still required including Qualifications Based Selection (QBS) for architectural/engineering services, environmental review, and Disadvantaged Business Enterprise (DBE).

Funding of Multiple Sponsored Projects:

There may be situations that occur where the sponsoring to sponsored project ratio allows for multiple sponsored projects. For example, if a municipality is completing a WWTF upgrade for a total cost of \$10M, the amount of eligible sponsored projects would be

approximately \$1M. In this situation, the municipality may choose to sponsor only one project at a lower ratio. For example, they may identify a \$500k sponsored project and it would be forgiven at a ratio of 20:1.

However, a municipality may choose to apply for multiple sponsored projects that total the approximate 10:1 ratio. For example, they may identify two land conservation easements totaling \$100k, a dam removal of \$500k, and a wetland reconstruction project of \$400k. These four sponsored projects could be bundled together into one sponsorship application. The challenge to this arrangement would be timing multiple projects to ensure that all sponsored projects are completed prior to repayment start date of the sponsored project. In the case of proposed multiple sponsored project applications, a timeline of project completion dates would need to be submitted and approved by the program.

Property Use Restrictions

The Implementers and long-term custodians of natural resource projects that purchase land may use existing land and structures for recreational, educational, or maintenance purposes. WISPr will utilize existing standard easement models with project-specific property use restrictions.

Operation and Maintenance Commitment:

All sponsored projects will be required to submit an operation and maintenance plan and a letter of commitment for project operation and maintenance prior to loan execution. All proposed projects should be planned, constructed, inspected, and maintained based on the expected life of the project. An operation and maintenance plan assure that the project will meet its functional life. An operations plan is to include:

- A maintenance plan for each project to assure that the project will be in place and operational long enough to meet, at a minimum, its expected design life [10 years minimum for all project types] and
- The entity responsible for carrying out that maintenance plan.

Annual Reports

In addition to the O&M plan, beginning with a submittal one year and 30 days after execution of the easement, the Implementer shall annually submit to Vermont CWSRF written documentation describing the status of the natural resource property and verifying the extent to which the activity and use limitations remain in place and are being complied with in accordance to the easement in place and operation and maintenance plan. The reports should be submitted for the first 5 years following execution of the loan agreement. The documentation should describe any changes to the property within the reporting period and previously agreed upon water quality improvement indicators. The Implementer may substitute another required annual report if it meets the previously agreed upon annual reporting requirements.