

PROPERTY ACQUISITION: FEE TITLE & EASEMENT

Disclaimer: This attachment contains a summary of the administrative rule requirements. Where discrepancies exist, the provisions of the rule will govern.

Fee title or easement property acquisition is eligible for funding under the Urban Nonpoint Source and Storm Water (UNPS&SW) grant program if certain criteria are met. The following information should be reviewed before you submit your application. In all cases, there must be a willing-seller/willing-buyer relationship. An acquisition proposal, as defined below, must be submitted and reviewed prior to submitting your grant application.

Eligibility Requirements

- **Fee Title Property Acquisition**

All property rights (fee title) may be purchased with an UNPS&SW grant to support structural urban BMPs, including wet detention basins, infiltration basins, vegetated swales and infiltration trenches (s. NR 154.04(42)).

- **Conservation Easement Property Acquisition**

A **subset of property rights** (conservation easement) may be purchased with an UNPS&SW grant to support one or more of the following structural urban BMPs:

- wetland restoration;
- structural urban best management practices (see Fee Simple property acquisition list above); and
- any other best management practices specified as eligible for easement support in an approved runoff management grant.

Ineligible Projects

The department will **not** award grants under this program for any of the items listed below.

- The acquisition of property through condemnation.
- The acquisition of property occurred more than one year before a property acquisition grant application is submitted to the department.
- The acquisition of property for which an environmental inspection report shows that the property contains undesirable environmental conditions or liabilities or potential liabilities or hazards that are unacceptable to the department.

Ownership Of Property Acquired With An UNPS&SW Grant

- **Fee Title** - A governmental unit sponsoring a UNPS&SW project that includes the purchase of all property rights will hold title to the property and assume all the implied responsibilities in perpetuity (permanently) once the governmental unit has taken ownership of the property.

- **Conservation Easement** - A governmental unit that is sponsoring a UNPS&SW project that includes the purchase of less than all property rights must have a written easement agreement in perpetuity with the landowner. While the governmental unit does not own the land or pay taxes on the land, the written easement agreement with the landowner specifies which rights are being purchased from the landowner, the cost of acquiring those rights, the frequency of access by the governmental unit onto the land for purposes of development and maintenance, whether any project signage is allowed on the land, whether any structures are allowed on the land and other parameters as the landowner and governmental unit may agree to in writing.

Value Of Fee Title Or Conservation Easement Land Acquired With An UNPS&SW Grant

The DNR reviews the value of fee title or conservation easement property to be acquired under the UNPS&SW grant program using an appraisal prepared by a private appraiser that was ordered by the grantee. Appraisal provided by the seller is unacceptable. To ensure that appraisal is accurate from the beginning, the DNR recommends that applicants seek advice from the DNR's Review Appraiser ***before*** the grantee orders the appraisal.

When ordering the appraisal for the acquisition project, **please request that your appraiser contact DNR's Review Appraiser before completing the appraisal report.** All appraisals need to be reviewed by the DNR; this consultation between appraiser and reviewer can help expedite that review process.

Appraisers should contact:
Greg Hicks, DNR Review Appraiser
Gregory.Hicks@wisconsin.gov
608-640-7241

DNR Real Estate Contract and Appraisal Report Guidelines

<https://dnr.wisconsin.gov/sites/default/files/topic/Aid/grants/CF0015.pdf>

Applicants requesting grant funds for fee title or easement property acquisition will be notified about the success of their application in September or October of the year in which an application was submitted. Successful grantees will then submit an appraisal to the Regional Nonpoint Source Coordinator and Nonpoint Source Program Grant Manager. The appraisal will be forwarded to the DNR Review Appraiser; no grant reimbursement will be issued to the grantee until the DNR Review Appraiser has certified that the appraisal was prepared according to established appraiser specifications. If there are areas of dispute in the appraisal, the DNR Review Appraiser will contact the private appraiser directly and attempt to resolve the dispute.

Appraisals ordered by the grant applicant before the applicant is notified about their successful application may be submitted to the DNR if that appraisal was prepared no earlier than Jan. 1 of the year in which the grant application was submitted.

If an applicant is applying for an UNPS&SW grant to offset the cost of fee simple or conservation easement property acquired before Jan. 1 of the grant year and that purchase was based upon a valuation that does not comply with these requirements, then the property must be re-valued and the new appraisal must be approved by the DNR Review

Appraiser before the DNR will issue the reimbursement under the grant. You can find additional information on the DNR's website at:

<https://dnr.wisconsin.gov/sites/default/files/topic/Aid/grants/CF0015.pdf>.

Cost-Share Rates

- **Fee Title** - Purchase of property will be funded at up to 50% of the appraised value.
- **Easements** - Urban easements purchased through a UNPS&SW project will be funded at up to 50% of the appraised value.

Eligible Acquisition Costs

Eligible acquisition costs include the cost of appraisals, land surveys, relocation payments, title evidence, recording fees, historical and cultural assessments required by the department and environmental inspections and assessments completed through contract by professional consultants. Reasonable costs do not include attorney's fees, environmental clean-up costs, brokerage fees paid by the buyer, real estate transfer taxes or any other cost not identified in this subdivision. Refer to s. NR 155.25(6)(b).

Grant Timing

If you are applying for funds for fee title property acquisition, those funds may either cover a purchase to be made during the project period or to cover a purchase made prior to the project period. In either case, a grant award for fee title or easement property acquisition will only be possible if BMP construction is also funded. Funding will not be granted solely for the fee title or easement property acquisition.

Acquisition Proposal Required

If you are requesting funds for property acquisition (fee title or easement), you must submit a property acquisition proposal to the Regional Nonpoint Source Coordinator prior to submitting your application materials. The acquisition proposal must include all of the information listed below.

- Maps showing the proposed property to be acquired, including all of the following:
 - county map;
 - site map utilizing the Departmental mapping functions at: [Surface Water Data Viewer](#) or DNR Webmap, showing Township, Range, Section, quarter-section, quarter-quarter section; and
 - project or land use planning map.
- The Minor Civil Division name, parcel number and ownership.
- The purpose of the property acquisition and how it will help meet project goals. Identify the structural urban best management practice that will be constructed on the property.
- General time frame for property acquisition.
- Indicate if you are requesting funds for an acquisition that would be made after or before the grant is issued (approximately Jan. 1 of the grant year).

- Demonstrate assurance that the offer to buy has been or will be accepted. *Note that if the acquisition has already occurred, indicate if the valuation meets the requirements of s. NR 155.25(5)(b).
- Size of acquisition including the number of parcels, number of improved parcels and acres.
- Land management information, including list of owner-occupants or tenants that occupy the property and information indicating that the sellers are willing.
- Identify if relocation plans will be needed in accordance with ch. Commerce 202, Wis. Adm. Code.
- Identify the roles of other governmental units in future property management.
- Estimated acquisition and annual property maintenance costs.

Next Steps

If you have any questions about the procedures for fee title or easement property acquisition through the UNPS&SW Grant Program, contact the Regional NPS Coordinator for your part of the state as listed at <https://dnr.wi.gov/topic/nonpoint/NPScontacts.html>.

If the project is offered funding, you should review the publication, titled “Land Acquisition Guidelines for Local Governments” (January 2007) at <https://dnr.wisconsin.gov/sites/default/files/topic/Aid/grants/CF0015.pdf>.