

## STANDARDS OF EVALUATION

Grant applications are evaluated against several standards established by the Trust Board and by state law and regulation. These standards are summarized in this section for easy reference.

**Trust Board Funding Categories** Any project or portion of a project funded by the Nebraska Environmental Trust must achieve one or more of the following Trust category areas. These category areas are equally important.

Habitat: actions to preserve or restore native habitats and areas critical to at-risk, rare or endangered species; other preservation actions for at-risk, rare or endangered species including actions to understand ecosystem relationships which inform sound management; community habitat enhancement emphasizing native and ecologically appropriate plantings which provide food and shelter for wildlife; actions to inform and educate which contribute to the attainment of this category.

Surface and Ground Water: actions to preserve or restore lakes, waterways and ground water from degradation or depletion; actions to research, design or foster best management practices; actions to conserve water and/or efficiently and effectively manage water use; actions to inform and educate which contribute to the attainment of this category.

Waste Management: actions promoting and implementing source reduction, waste management or toxicity reduction; actions promoting and implementing the development of recycling markets; actions promoting and implementing reuse and other disposal diversion actions; actions to inform and educate which contribute to the attainment of this category.

Air Quality: actions promoting and implementing clean air strategies, including greenhouse gas reductions, actions to research, design or foster best management strategies; actions to inform and educate which contribute to the attainment of this category.

Soil Management: actions and strategies to preserve, conserve and restore soil health; actions to research, design or foster the implementation and management of these strategies; actions to inform and educate which contribute to the attainment of this category.

**Project Eligibility Criteria** All projects must meet all of the following criteria to be considered for funding. For the complete text of the regulations defining eligibility, please see our website link to Title 137, Chapter 5.

1. The applicant must demonstrate that the project is environmentally acceptable. The project shall not cause harm to the environment and results in a net gain for the environment.
2. The project must have clear and direct environmental benefits.
3. The project must make a real contribution to achieving the Trust Board's environmental categories.
4. The project must provide public benefits.
5. The funds requested will provide assistance only to proposals which are deemed technically feasible.
6. The funds requested will provide assistance only to proposals which are deemed financially feasible.
7. The funds requested shall not be used to provide direct assistance to regulatory programs.
8. The funds requested shall not be used to implement actions mandated by regulations except remediation.
9. The funds requested shall not pay for private benefits or provide assistance to projects whose benefits are primarily private in nature. (See "Guidance for Private, For-Profit Applicants", page 3, for a discussion of this criterion.)

10. The funds requested shall not be used to relieve private liability for environmental damage.
11. The funds requested shall not pay for projects which have direct beneficiaries who could afford the costs of the benefits without experiencing serious financial hardship.
12. The funds shall not pay for land or easements acquired without the full and express consent of the landowner.

**Application Rating Scale - All projects that are judged eligible are scored using the following scale. For the complete text of the rules governing project rating, please see our Web site link to Title 137, Chapters 7 and 8.**

**Mandatory Rating Factors - Every eligible project is rated on the following factors:**

<b>Ratings Statement</b>		<b>Low</b>		<b>Ave.</b>		<b>High</b>	<b>Points Available</b>
Degree project advances categories of the Trust	0	5	10	15	20	25	25
Sound planning & design	0	5	10	15	20	25	25
Direct measurable environmental benefits	0	4	8	12	16	20	20
Cost-effective	0	4	8	12	16	20	20
Duration of benefits	0	3	6	9	12	15	15
Matching (non-state) resources (monetary & in-kind)	0	3	6	9	12	15	15
Prevents contamination or degradation of resources	0	3	6	9	12	15	15
Many people or communities served by project	0	3	6	9	12	15	15
General public benefit	0	2	4	6	8	10	10
Public/private partnerships	0	2	4	6	8	10	10
Economic impact	0	2	4	6	8	10	10
Evaluation plan	0	2	4	6	8	10	10
Unique Need	0	1	2	3	4	5	5
Public health	0	1	2	3	4	5	5
Innovation	0	1	2	3	4	5	5
Replication potential	0	1	2	3	4	5	5
Individual or local Initiative	0	1	2	3	4	5	5
<b>Feature Program Bonus Points</b>							<b>35</b>
<b>Total Points Available</b>							<b>250</b>
Geographic Points - vary each year and are announced in August							

**Optional Rating Factors - Projects can receive additional points in two ways.**

## GEOGRAPHIC DISTRIBUTION

In order to ensure equitable distribution of funds across the entire state over time, the Trust may assign points to a project benefiting an area deemed previously under-served by Trust funded projects. The Trust defines seven districts to determine geographic distribution, and usually assigns points based

on the districts in which a project will be accomplished. This factor is not used every year. Many projects do not receive any points in this category.

**FEATURE PROGRAM BONUS:** An eligible application that meets **all** of the following criteria will receive 35 additional points, to encourage large-scale collaborative projects with significant environmental impact.

1. The project is designed on an eco-system, resource-based or regional approach.
2. The project includes components to inform and educate on sound resource management practices.
3. The project includes representatives of public and private interested parties and organizations in comprehensive planning, design and evaluation activities.
4. The project recognizes community and economic values which may affect conservation action, and designs appropriate actions to enhance attainment and sustainability of resource objectives.
5. The project creates efficiencies of delivery and maximizes available resources through the development of formal and informal interlocal or interagency agreements and/or public/private partnerships.

### **Guidance for Private, For-Profit Applicants Regarding Eligibility**

The following discussion is intended to serve as a guideline for applicants in developing proposals that comply with the eligibility criterion, "The funds requested shall not pay for private benefits or provide assistance to projects whose benefits are primarily private in nature."

This list is not intended to be an exhaustive, all-inclusive list of options that might demonstrate acceptability under this rule. Rather, we hope to illustrate some options that an applicant might use to meet this rule.

Benefits from a Nebraska Environmental Trust Grant must be public in nature. Private benefit, especially private financial gain, must be incidental to the project. This creates a special challenge for private landholders seeking to improve their property or for-profit enterprises seeking assistance for their operations.

An applicant could incorporate any or all of the following components into a proposal in order to demonstrate that a project results in public gain:

- The project is co-sponsored by at least one public entity in full partnership. The entity will determine appropriate public benefit as a pre-condition to partnership.
- Incidental private gain, e.g., increased equity value, reverts to the public sector.
- The project returns a benefit value to the public exceeding the dollar amount of the grant, and the grant represents the minimum investment required in order to produce the projected benefits to the public; and there is clear public need that is unmet and the private sector is unlikely to meet this need without public assistance.

An applicant could incorporate the following into a proposal to help determine that a project results in public gain when seeking funds for the improvement of private property:

- The increase in ecosystem value can be quantified; e.g., tons of soil conserved, volume of water with measures of clarity, purity, etc.

- The increase in value of private property is quantified; and the increase in ecosystem value clearly exceeds the increase in the value of private property; and the grant represents the minimum investment required in order to produce the projected benefits to the public.

A private property owner might enter into an agreement granting equity interest, a conservation easement, or like arrangement with a public entity to demonstrate how the private gain is to be repaid.

The burden of proof of any of these conditions lies with the applicant.

### **Confidentiality of Application and Associated Materials**

The board of the Nebraska Environmental Trust has adopted the following policy regarding the confidentiality of grant applications and associated materials. Please review this policy before completing your Trust grant application.

001. All records submitted to the Nebraska Environmental Trust in support of an application for grant assistance are considered public records subject to the exceptions provided in state law, including Neb. Rev. Stat. §84-712.05 and other sections as may be relevant.

Any applicant may raise a claim of confidentiality for reasons identified in statute. The claim must be made in writing at the time of submission of the record or information to the Nebraska Environmental Trust

If no claim of confidentiality accompanies the record or information when it is received, the claim is waived and the material may be made available to the public without further notice under 003.

002. The applicant shall certify the record or information by placing on or attaching at the time of submission a cover sheet with appropriate notice, reasons for asserting the claim, and language, such as trade secret, proprietary, or confidential.

The appropriate notice and reasons for asserting the claim shall include:

- 002.01 Certification that the record or information is entitled to confidentiality, identification of the statutory basis of the claim, and that the claim has not expired by its terms, been waived, or withdrawn;
- 002.02 Description of reasonable measures that claimant has taken to protect the confidentiality of the information or records, and that it intends to continue to take such measures;
- 002.03 Assurance that the information or record is not, and has not been, reasonably obtainable without the claimant's consent by other person (other than governmental bodies) by use of legitimate means; and
- 002.04 Reasons why or how disclosure of the information or record is likely to result in substantial harmful effects to the business's competitive position and what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

Allegedly confidential portions of otherwise non-confidential records and information should be clearly identified by the claimant and may be submitted separately to facilitate identification and handling by the agency. The agency may require the claimant to submit a separate copy of the record and information with the confidential portions omitted to facilitate requests for access by the public. If the regulated entity

desires confidential treatment only until a certain date or the occurrence of a certain event, the notice should so state.

003. If a confidentiality claim for trade secrets covering the record or information is received after the submission of the record or information itself is received, the agency will make such efforts as are administratively practicable to associate the late claim with copies of the previously submitted information in the agency files, although the agency cannot assure that such efforts will be effective given the possibility of prior disclosure to the public.

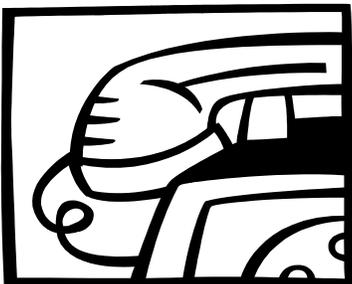
004. For each claim the director shall determine whether the record or information relates to processes or methods entitled to protection, in making such determination which shall be on the record, the director shall consider, in addition to the factors listed in 002 that no statute specifically requires disclosure of the information or record.

005. Whenever the director preliminarily determines that records of information required to be submitted to the agency are not entitled to confidential treatment as trade secrets, a written explanation of the reasons for such determination shall be furnished to the claimant, who shall be afforded an opportunity to comment before a final decision is made.

Notice of such determination shall be sent by certified mail to the claimant specifying a reasonable time allowed for comments. Failure to furnish timely comments shall be considered a waiver of the claim.

Notice of the final decision denying a claim for confidential treatment of records or information as trade secrets shall be provided to the claimant in writing by certified mail. The agency will make the record or information available to the public on the tenth day after the date of the claimant's receipt of the written notice of denial of its claim.

006. The director may not withhold records as confidential if they have been disclosed in an open court, open administrative proceeding, open meeting or disclosed by the department in its duties.



**Help Is Available.** If you have questions or would like to discuss a project, you are encouraged to contact the Trust office. We will be happy to answer simple questions immediately, or to arrange an appointment for you to discuss a draft proposal in detail with staff. You can reach our office at (402) 471-5409.