

AGENDA

Nebraska Environmental Trust
Grants Committee
Wednesday, September 20, 2023
1:00 PM
Via Zoom

2077 N Street, Suite 310
Lincoln, NE 68509

The public may attend the meeting at either the physical address or via Zoom at <https://outdoornebraska.zoom.us/j/97172774088> or call 1-253-205-0468, Meeting ID: 971 7277 4088

1. Call to Order
 - a. Roll call
 - b. Verify Quorum
 - c. Notice of Meeting; Published Tuesday, September 12, 2023
 - d. Notification of Open Meetings Law Posting
2. Public Comment
3. Approval of December 8, 2022, Grants Committee meeting minutes
4. Grant application process timeline
5. Review Eligibility questions and criteria
6. Review Scoring questions and possible points criteria
7. Review Title 137 minimum scoring criteria for funding consideration
8. Next Meeting; October 11, 2023, Nebraska Environmental Trust office, 2077 N Street, Suite 310, Lincoln, NE, 1:00 PM
9. Adjourn

****This agenda contains a list of subjects known at the time of its distribution on September 12, 2023. A Current copy is kept on file at the offices the Nebraska Environmental Trust, 2077 N Street, Suite 310, Lincoln, NE 68509. Except for items of an emergency nature, the agenda will not be enlarged later than 24 hours before the scheduled commencement of the meeting. Public comment may be offered on any agenda item by completing the sign-in sheet available at meeting. Time for each speaker should not exceed 3 minutes.**

MINUTES

Nebraska Environmental Trust
Grants Committee Meeting
Thursday, December 8, 2022
1:30 p.m.

1. Call to Order

Chairman Davidson called the virtual, on-site meeting of the Grants Committee to order at 1:30 p.m. in LL Room 031 at 245 Fallbrook Blvd, Lincoln, Nebraska.

Advanced notice of the meeting was published in the Lincoln Journal Star on November 28, 2022. The agenda and documents to be considered at the meeting were provided. The Open Meetings Act was posted near the meeting room entrance and on the Nebraska Environmental Trust website.

Roll call was conducted, and a quorum was present.

Members present (6):

District I: Mr. Jeff Kanger, Lincoln. **District II:** Mr. Felix Davidson, Valley; Mr. Mark Quandahl, Omaha. **District III:** Josh Andersen, Edgar

State Agency Representatives: Jim Macy, Director, Nebraska Department of Environment and Energy; Mr. Tim McCoy, Director, Nebraska Game & Parks Commission

Staff present:

Mr. Karl Elmshaeuser, Executive Director; Ms. Holly Adams, Grants Administrator; Ms. Sandra Weaver, Administrative Specialist

2. Public Comment

None.

3. Approval of October 13, 2022, Grants Committee meeting minutes

Motion by Mr. McCoy, seconded by Mr. Macy, "I move to approve the October 13, 2022, Grants Committee meeting minutes."

Discussion: None.

Voting Aye: Kanger, Macy, McCoy, Quandahl, Davidson

Abstain: Andersen

Absent: None

5 Voted Aye. 1 Abstained. Motion carried.

4. Grants Committee recommendation for funding for 2023 Grant Applications that were previously deemed eligible by the NET Board at the November 3, 2022, meeting

a. Projects Scored and Sorted by Score by Process defined at September 22, 2022, meeting.

Executive Director Elmshaeuser provided a brief overview of the background for the grant application rating system. In the audits with the Nebraska Auditor of Public Accounts and Department of Administrative Services, one finding referred to Neb. Rev. Stat. § 81-15,175(2), which requires the Board to establish rating systems for ranking proposals that meet the Board's environmental categories and other criteria. Another finding referred to Title 137, Administrative Code, Chapter 8 – 002. The regulation states, "In deciding the assignment of points for each eligible project, the Committee shall do so in a manner which provides a fair comparison of

projects regardless of the cost. More expensive projects shall not receive additional points just because they are larger in scale.” The findings also noted the need for a clear methodology for the Grants Committee or the Board to use in determining how much financial assistance each project will receive. At the NET Board meeting on May 19, 2022, a motion was passed to approve the new project ranking systems for grant applications using a 10-question format that follows Title 137 and allows up to five points per question. On September 22, 2022, before reviewing any applications, the Grants Committee passed a motion to utilize Olympic scoring that provides an average of the aggregated scores to create a minimum funding line. Mr. Elmshaeuser noted the 2023 Final Rank Order list with all the scores for each project was provided in the December 8, 2022, meeting materials. The highest rating is 42.33, and the lowest rating is 20.83 after one application was withdrawn. The Olympic scoring line was determined after the top and bottom scores were removed, and the remaining scores were averaged.

Mr. Quandahl noted as part of the ongoing improvement process, further adjustments to ranking and scoring may be made in the future.

Motion by Mr. Davidson, seconded by Mr. Macy, “I move that the Grants Committee recommend funding to the full Board for years one, two, and three for grant applications 23-113, 23-131, 23-115, 23-136, 23-164, 23-122, 23-114, 23-156, 23-132, 23-171, 23-149, 23-142, 23-148, 23-140, 23-162, 23-166, 23-127, and 23-150.”

Discussion: None.

Voting Aye: Kanger, Macy, McCoy, Quandahl, Andersen, Davidson

Absent: None

6 Voted Aye. Motion carried.

Motion by Mr. Davidson, seconded by Mr. Macy, “I move that the Grants Committee recommend funding to the full Board for years one, two, and three for grant applications 23-138, 23-170, and 23-172.”

Discussion: None.

Voting Aye: Macy, Quandahl, Andersen, Kanger, Davidson

Abstain: McCoy

Absent: None

5 Voted Aye. 1 Abstained. Motion carried.

Motion by Mr. Davidson, seconded by Mr. McCoy, “I move that the Grants Committee recommend funding to the full Board for years one, two, and three for grant applications 23-117 and 23-153.”

Discussion: None.

Voting Aye: McCoy, Quandahl, Andersen, Kanger, Davidson

Abstain: Macy

Absent: None

5 Voted Aye. 1 Abstained. Motion carried.

Motion by Mr. McCoy, seconded by Mr. Davidson, “I move that grant applications with scores of 30 to 33.17 be advanced to the Board for funding.”

Discussion: In addition to the ineligibility determination for many grant applications, Mr. McCoy noted a close differential in ratings for eligible projects. In light of this, he asked the Committee to discuss the possibility of moving the additional projects forward to the Board for funding. Executive Director Elmshaeuser noted sufficient funds were available. Mr. Quandahl cautioned the Committee

that the Trust's lawsuit and audit findings called for some certainty in how the Grants Committee would evaluate the applications. He hesitated to change the path determined for scoring at the September 22, 2022, Grants Committee meeting. Executive Director Elmshaeuser clarified the average score out of 50 possible points was 30. In an internal review of the entered ratings, Olympic versus straight average scoring differed by one grant, and Olympic versus curved average scoring differed by two grants. The comparison indicated scoring was reasonably consistent within the Grants Committee. Mr. Macy reported leaning towards a "no" vote on the motion since he had not had sufficient time to consider whether he should abstain from more than three projects. Additionally, the full Board can decide whether to fund the additional projects in January. Mr. McCoy clarified that he would not need to abstain from any of the projects being considered.

Voting Aye: McCoy

Voting Nay: Kanger, Macy, Davidson

Abstain: Quandahl, Andersen

Absent: None

1 Voted Aye. 3 Voted Nay. 2 Abstained. Motion failed.

5. Next Meeting

The next Grants Committee meeting date has not been determined.

The Grants Committee will present its funding recommendations to the full Environmental Trust Board in January 2023.

6. Adjourn

Chairman Davidson adjourned the meeting at 2:00 p.m.

Karl L. Elmshaeuser, Executive Director

Grants Committee Timeline

- **September 20th 1:00 p.m. via Zoom**– Grants Committee Meeting to Review Timeline and Process – **One member will need to be present at the NET Office**
- **October 11th 1:00 p.m. at NET office**– Grants Committee recommendations for eligibility meeting
- **November 2nd 1:30 p.m. at NET office** – Board Meeting – Board will approve/modify recommendations for eligibility
- **November 3rd** – Grants Committee Scoring Begins
- **December 1st** – **Scoring due into the Grants Portal by members**
- **December 6th 1:00 p.m. at NET office** - Grants Committee recommendations for awards meeting
- **January 4th at 1:30 p.m. at NET office** - Board Meeting – board will approve/modify recommendations for funding

Eligibility

The eligibility questions were created using the Nebraska Environmental Trust (NET), Title 137, Chapter 4 – Criteria for Eligibility and the Nebraska Revised Statute 81-15,176. The chapter and section information are listed in parenthesis after each question. You can go to that section to read more information. Answers in this section will be used by the Grants Committee to help determine eligibility of projects. Projects deemed eligible will be moved on to scoring.

More information on NET's legislation and regulations can be found here:

<https://environmentaltrust.nebraska.gov/about/lr.html>

Eligibility Criteria Questions

1. Does your project provide direct assistance to regulatory programs? (04.001.01)
2. Does your project implement actions mandated by regulations, excluding remediation? (04.001.01)
3. Will your project pay for private benefits or provide assistance to projects or portions of projects whose benefits are primarily private in nature? Compensation for contributions made to a project, such as land or land rights, shall not constitute payment for private benefits. (04.005)
4. Will your project relieve private liability for environmental damage (except for projects for remediation of soils or ground water) or provide assistance to projects in order to relieve such liability? "Private liability" shall mean liability to a person or entity and shall include fines or penalties imposed by a governmental entity. (04.001.01)
5. Does this project have direct beneficiaries who could afford these costs without experiencing serious financial hardship? Direct beneficiaries shall not be deemed to include a person who receives incidental benefits from a project which primarily benefits the general public. (04.001.02)
6. Does your project provide the greatest environmental benefits relative to cost? (04.001.02)
7. Does your project provide clear and direct environmental benefits? A project will be considered to have clear and direct environmental benefits if the realization of those benefits can be reasonable expected, as a result of the project and if those benefits will be obvious, even if not quantifiable. Educational projects may be considered to have clear and direct environmental benefits. (04.003)
8. Does this project make a real contribution to achieving the Board's environmental categories? (04.004)

Those categories are:

- a. **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 fulfillment of this category.

- b. **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 fulfillment of this category.
 - c. **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 fulfillment of this category.
 - d. **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 fulfillment of this category.
 - e. **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 fulfillment of this category.
9. Does your project offer public benefits? (04.005)
10. Will this project pay for land or easements acquired without the full and express consent of the landowner? Will this purchase eliminate the property tax liability? (04.001.05 and 81-15,176)
11. Is your project environmentally acceptable? (04.002)

A project is considered to be environmentally acceptable when:

- a. The project will not jeopardize the continued existence of any threatened or endangered species or result in the destruction or modification of the critical habitat of any such species and shall meet the requirements contained in the Nongame and Endangered Species Conservation Act, Nebraska Revised Statute § 37-801; and (04.002.01)
- b. The plan of development minimizes any adverse impacts on the natural environment, adequately addresses existing cultural resources and results in environmental net gain. (04.002.02)

- c. In addition to any proposed mitigation measures, all aspects of the project which can be anticipated to result in environmental enhancement shall be considered in determining whether the plan minimizes adverse impacts. The Board may request additional information it deems necessary in determining environmental acceptability. The applicant, if required by the Board, will be provided a reasonable period of time to respond to requests for information and such other items as the applicant of the Board identifies as relevant to the issued of environmental acceptance. (04.002.03)

12. Is your project financially and technically feasible? (04.006)

- a. Financial Feasibility: A project is financially feasible if sufficient funds can be made available to complete the project and if sufficient annual revenues can be obtained to operate, maintain, and replace the project as applicable. Each applicant shall submit a project budget identifying the nature and amount of each source of funds to be used for the project; a schedule indicating when such funds will be received; and a schedule indicating when the funds available will be expended for project purposes. The remaining financial data supplied by the applicant will depend upon the type of applicant. (04.006.01)
- b. Technical Feasibility: A project that is structural in nature shall be considered technically feasible when it can and will be designed, constructed, and operated to accomplish the purpose(s) for which it was planned utilizing accepted engineering and other technical principles and concepts. A project which is nonstructural in nature shall be considered to be technically feasible when it can and will be designed and carried out to accomplish the purpose(s) for which it was planned. (04.006.02)

Internal Procedural Guidance for the Evaluation of Applications Regarding Prohibition of Directly Funding Regulatory Programs or Funding Actions Mandated by Regulations.

Method To Used To Determine Neb. Rev. Stat. § 81-15,176(2)(a) Eligibility:

To make a determination as to whether an application would directly fund a regulatory program or fund an action mandated by regulations, staff and board members shall utilize the following decision tree to evaluate an application:

1. Is the grant providing direct assistance to a regulatory program?
 - a. Is the applicant a governmental entity? (If yes, proceed to b. If no, the grant does not provide direct assistance to a regulatory program, skip to 2.)
 - b. Is the program being funded regulatory in nature? (If yes, proceed to c. If no, the grant does not provide direct assistance to a regulatory program, skip to 2.)
 - i. Regulatory means to control, direct, or govern. Generally this means statutes, rules, regulations, or ordinances that direct or require some other entity or person to do something. (Definition from Title 137).
 - c. Is the applicant being funded the one in control of the program? (If yes, funding is prohibited. If no, the grant does not provide direct assistance to a regulatory program, skip to 2.)
2. Is the grant funding the implementation of actions mandated by regulations?
 - a. Is the grant funding an activity the applicant is required to do? (If yes, proceed to b. If no, grant is permissible.)
 - b. Is the requirement in regulation? (If yes, proceed to c. If no, grant is permissible.)
 - i. Note: regulations means only those rules codified in the Nebraska Administrative Code or the Code of Federal Regulations. (Definition from Title 137).
 - c. Is the grant for remediation? (If yes, grant is permissible. If no, grant is funding the implementation of actions mandated by regulations and is not permissible.)

If it is determined that an application fails either Question 1 or Question 2 above, it is not eligible for funding.

Scoring Criteria

The Rating Criteria questions in this section was developed using Nebraska Environmental Trust's Title 137, Chapter 4 and 6 and the Nebraska Revised Statute 81-15,176. The answers to these questions will be used by the Grants Committee to Score your project. Each question will be scored 0 to 5 points.

More information on NET's legislation and regulations can be found here:

<https://environmentaltrust.nebraska.gov/about/lr.html>

Scoring Criteria and Application Questions

1. **Application Question:** Does your project conform to the funding categories? Explain which categories and how.

Scoring Criteria: Does the project conform to the funding categories? (04.001.03, 04.004, and 81-15,176)

- a. 0 – Does not meet criteria – Outside of scope
- b. 1 – Low – Undefined project, just lists the category
- c. 2 – Below Average – Lacks clarity of purpose
- d. 3 – Average – Meets one category objective
- e. 4 – Above Average – Two categories well defined
- f. 5 – High – Three or more categories well defined

2. **Application Question:** Does your project produce a commitment of funds from other funding sources? Please provide the percentage of match to the project's funds.

Scoring Criteria: Does the project produce a commitment of funds from other funding sources? (06.003.02)

- a. 0 – Does not provide any match
- b. 1 – Provides 5% - 24% match
- c. 2 – Provides 25% - 49% match
- d. 3 – Provides 50% - 74% match
- e. 4 – Provides 75% - 99% match
- f. 5 – Provides 100% match

3. **Application Question:** Evaluation of performance looking back the last 3 grant cycles. Has any of your project in the last 3 grant cycles received a 15-day notice that was enforced and/or had quarterly or final reports overdue? If yes, please explain.

Scoring Criteria: Evaluation of performance looking back the last 3 grant cycles. (06.003.07)

- a. 0 – Received a 15 Day Notice that was enforced
- b. 1 – Final Report was late
- c. 2 – Two Quarterly Reports were late
- d. 3 – New Applicant
- e. 4 – All Quarterly Reports and Final Report submitted on time
- f. 5 – All Reports submitted on time, no extensions or modifications requested

4. **Application Question:** Does the project result in a public-private partnership? If yes, please explain how.

Scoring Criteria: Does the project result in a public-private partnership? (81-15,176)

- a. 0 – Not a requirement/Encouragement only
- b. 1 – Low – Solo project
- c. 2 – Below Average – One
- d. 3 – Average – Two
- e. 4 – Above Average - Three
- f. 5 – High – Four or more

5. **Application Question:** Does this project attain a geographic mix that provides funding for a diverse area? Please explain the number of counties and how they are impacted by this project.

Scoring Criteria: Does this project attain a geographic mix that provides funding for a diverse area? (06.003.01)

- a. 0 - Does not meet criteria – Majority of funding for project not used in NE
- b. 1 – Low – One to two counties impacted
- c. 2 – Below Average – Three to four counties impacted
- d. 3 – Average – Five to six counties impacted
- e. 4 – Above Average – Seven to eight counties impacted
- f. 5 – High – Nine or more counties impacted

6. **Application Question:** Is the project cost effective? Provide the percentage. To calculate the percentage of overhead, please take the amount you're requesting for operating and divide it by the total amount of funds you're requesting minus the administration requested. Formula: Operations/ (NET Funds requested – Administration)

Scoring Criteria: Is the project cost effective? (Formula: Operations/(NET Funds requested – Administration)). (06.003.02)

- a. 0 – 12% or higher
- b. 1 – 10 to 11.99%
- c. 2 – 7 to 9.99%
- d. 3 – 4 to 6.99%
- e. 4 – 2.01 to 3.99%
- f. 5 – 0 to 2.00%

7. **Application Question:** Does the project have economic impacts?

Scoring Criteria: Does the project have economic impacts? (06.003.03)

- a. 0 – Does not meet criteria – No data provided
- b. 1 – Low – Lack in clarity in project scope
- c. 2 – Below Average – Generalization of goals to be accomplished
- d. 3 – Average – Increases in opportunities or mitigation of hazards well defined
- e. 4 – Above Average – Proposed measurements provided
- f. 5 – High – Outcomes can be verified independently

8. **Application Question:** Does the project produce direct environmental impacts?

Scoring Criteria: Does the project produce direct environmental impacts? (06.003.04)

- a. 0 – Does not meet criteria – No data provided
 - b. 1 – Low – Lack of clarity in project scope
 - c. 2 – Below Average – Generalization of goals to be accomplished
 - d. 3 – Average – Direct environmental impacts are well defined
 - e. 4 – Above Average – Proposed measurements provided
 - f. 5 – High – Outcomes can be verified independently
9. **Application Question:** Does the project produce long term environmental benefits for the general public? Explain the number of years your project will provide an environmental benefit.

Scoring Criteria: Does the project produce long term environmental benefits for the general public? (06.003.05)

- a. 0 – Not sustainable, less than one year
 - b. 1 – One year
 - c. 2 – Two years
 - d. 3 – Three years
 - e. 4 – Four to nine years
 - f. 5 – Ten years or more
10. **Application Question:** Does this project have a plan for evaluating the results of the expenditure of grant funds? Please explain how.

Scoring Criteria: Does the project have a plan for evaluating the results of the expenditure of grant funds? (06.003.06)

- a. 0 – No plan provided
- b. 1 – Tangible and/or intangible benefits provided
- c. 2 – Goals, objectives, and outcomes provided
- d. 3 – Baseline measurement, target, and improvement provided
- e. 4 – Measurable real time value provided
- f. 5 – Independent validation process of data provided

Title 137 – Chapter 6 - PROJECT RANKING SYSTEMS

005. No application receiving fewer than twenty-five percent (25%) of the maximum points will be funded.