

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.