

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER g: GRANTS

PART 3090
RECREATIONAL TRAILS PROGRAM

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AUTHORITY: Implementing and authorized by the Outdoor Recreation Resources Act [20 ILCS 860] and the federal Recreational Trails Program, created through the National Recreational Trails Fund Act enacted as part of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and reauthorized by MAP-21, Moving Ahead for Progress in the 21st Century (P.L. 112-141) and 23 USC 206.

SOURCE: Adopted at 39 Ill. Reg. 12333, effective August 21, 2015.

Section 3090.5 Definitions

"CERP" means the Comprehensive Environmental Review Process by which the Department is required, by various statutes, to determine whether a prospective project may pose possible environmental or historical/cultural resource impacts.

"Department" or "DNR" means the Illinois Department of Natural Resources.

"Fund" means the Department of Natural Resource's Park and Conservation Fund created at Section 805-420 of the Department of Natural Resources (Conservation) Act [20 ILCS 805].

"Grant Agreement" means the signed agreement, entered between the Department and the grantee under Section 3090.70, that establishes the terms of the grant award and the responsibilities the grantee assumes.

"Long-Term Lease" means a lease of at least 25 years, unless the Grant Agreement specifies another duration.

"Trail Site" means an area owned and managed by the grantee for the purposes outlined in the application and described in the Grant Agreement. This includes lands surrounding the trail, facilities (e.g., restrooms, drinking water, concession areas, rest areas, parking, access roads, etc.).

Section 3090.10 Program Objective

The Recreational Trails Program (RTP) is a federal-aid assistance program to help states provide and maintain recreational trails for both motorized and nonmotorized trail use. Funding assistance provided through the program is for the development of motorized and nonmotorized trails that are open to the public and for the acquisition of land, through simple title, permanent easement or long-term lease, to be used for motorized and nonmotorized trails that are open to the public.

Section 3090.20 Program Eligibility Requirements

Eligible grant applicants include federal, State and local government agencies, not-for-profit organizations and private operators of recreational facilities open to the public.

Section 3090.30 Funding Assistance Formula

The RTP provides 80% reimbursement funding assistance on approved projects. A maximum grant of \$200,000 may be awarded per application for nonmotorized development projects. No maximum grant award amount is set for acquisition projects and for motorized projects. No limit is placed on the number of individual grants for which an entity can apply; however, only one grant will be awarded to any applicant during a grant cycle. Additionally, funds from other Department trails grant programs may be awarded, at the Department's discretion, to provide more than 80% funding assistance for some trail projects (e.g., motorized trails).

Section 3090.40 General Procedures for Grant Applications and Awards

- a) Necessary application material and instructions are available on the Department's website at www.dnr.illinois.gov.
- b) Grants are awarded under the authority and direction of the Director of the Department.
- c) Grant applications for assistance under this program must be submitted in accordance with the Department's public announcement of the grant cycle. Failure to submit a completed application to the Department by the date specified in the announcement will result in project rejection for that grant cycle.

- d) Project grant applications consist of the following basic components:
- 1) Completed application forms;
 - 2) A project location map;
 - 3) A site plat map or boundary map;
 - 4) A proposed site/trail development plan;
 - 5) A project narrative statement describing the project concept and location, need for and objectives of the project, anticipated benefits, proposed trail usages, and method of financing or accomplishing the project;
 - 6) A CERP evaluation;
 - 7) Proof of land ownership or usage rights for proposed development (construction) projects or commitment of title insurance for property planned for acquisition;
 - 8) A document signed by the applicant verifying the applicant has the resources to initially finance and subsequently manage the project area and that the applicant will comply with program regulations and indemnify the Department from any liability relative to the project;
 - 9) A schedule of proposed expenditures/reimbursements from anticipated start through project completion;
 - 10) If the applicant is not a governmental agency or an individual, a copy of the applicant's organizational documents (e.g., corporation, partnership, trust or other business entity organizational documents) or, if none of these apply, the applicant's by-laws;
 - 11) If the applicant is not a governmental agency, proof of a minimum of \$1,000,000 in liability insurance for motorized trail projects;
 - 12) The grant application fee required by 17 Ill. Adm. Code 3000.40; and
 - 13) For all projects that will initially establish a year-round trail or path within a linear corridor or initially open an area for motorized recreation vehicle use, documentation of the following public review:
 - A) If the project is sponsored by a government entity, a public hearing

must be conducted to discuss the project and solicit public comments. Minutes of the hearing, along with any written comments received, and a copy of the public notice must be submitted with the application to the Department. Notice of the public hearing must appear in at least one local newspaper of general circulation at least 7 days prior to the hearing.

- B) If the project is sponsored by a non-government entity, the application must include approval (or documentation that the approval process has been initiated) from the local zoning board or boards having jurisdiction over the property. Final action by the local zoning boards must be completed within 60 days after the grant submittal deadline. If the project is located in an area with no zoning requirements, notice of project intent must be published in the local newspaper, publically posted for 30 days at the county courthouse, and publically posted for 30 days at two additional prominent public locations within the county of the project site (e.g., the municipal building or post office of a nearby community, etc.).

Section 3090.50 Eligible Project Costs

- a) Grant assistance may be obtained for:
- 1) Land acquisition (fee simple title, permanent easement or long-term lease) from willing sellers for public trails/trail sites. Land acquisition costs include associated appraisal costs, site survey costs, title insurance and closing costs;
 - 2) Trail development, including, but not limited to, site clearing and grading, surfacing, drainage, bridging, access control devices, fencing, signs and associated support facilities such as parking areas, access roads, shelters, restrooms, potable water supply, lighting and other related amenities deemed necessary. Architectural/engineering services deemed necessary for the proper design and construction of project trails/trail sites are also considered eligible development costs;
 - 3) Restoration of areas adjacent to trails damaged by unauthorized trail uses; and
 - 4) Others uses approved by DNR based on such considerations as benefit to the public, need and economic feasibility.

- b) No grants shall be awarded to projects that, either in whole or in part, will not be open to the general public for the specified use of the proposed trail/trail site during reasonable hours and reasonable days throughout the year.
- c) RTP grant assistance cannot be used for the following purposes:
 - 1) Land acquisition through eminent domain;
 - 2) Construction of motorized trails and areas on U.S. Forest Service lands designated as wilderness or currently not authorized for trail use by a U.S. Forest Service approved management plan; and
 - 3) Conversion to a motorized trail of a trail that existed as a nonmotorized trail as of May 1, 1991.

Section 3090.60 Project Evaluation Standards

- a) **Application Scoring**

The following criteria will be used by the Department for evaluating and ranking grant applications. Each criteria indicates the weighting that will be given to that criteria.

 - 1) Projects of high need (20%), taking into account:
 - A) Trail significance – the estimated users that will be attracted to the trail/trail site; will it potentially be of interstate, State, regional or local importance;
 - B) Geographic distribution – will the proposed project, considering the trail type and proposed users of the trail or site, be the first in the county, area or region; and
 - C) Population served.
 - 2) Project concept and quality (55%), taking into account:
 - A) Project type. The following will be considered in the priority listed:
 - i) acquisition of land for new trails/trail sites;
 - ii) initial development of trails/trail sites;
 - iii) additional development of existing trails/trail sites; and

- iv) renovation of existing trails/trail facilities;
 - B) Trail length;
 - C) Proposed project cost per mile;
 - D) Diversity of trail use;
 - E) Scenic quality of the trail corridor or the trail site;
 - F) Availability of necessary amenities/support facilities, such as drinking water, restrooms and parking; and
 - G) Project sponsor maintenance capabilities and projects having the most long-term, stable management potential.
- 3) Environmental suitability of the proposed trail/trail site (5%).
- 4) Local support for the proposed project (5%).
- 5) Local financial contribution (5%).
- 6) Overall program suitability (10%).
- b) Penalty Factors – Deduct up to 25%
Consideration is given to the applicant's past performance in completing Department grant projects or unresolved project violations, maintenance history of existing sites, and administrative considerations (such as application completeness and response time during the application process).

Section 3090.70 Program Compliance Requirements and Grant Agreement

- a) Program Compliance Requirements
 - 1) Any property acquired or developed through assistance from an RTP grant must be open to the general public during reasonable hours and reasonable days for the recreational use described in the grant application, without regard to race or color, creed, national origin, sex or disability.
 - 2) If the land is acquired with funding assistance from the RTP:
 - A) the land shall be operated and maintained for the time period and for the trail purposes specified in the grant application, the Grant

Agreement and 23 CFR 1.23 and 1.27 (2015), except as provided in subsection (a)(4).

- B) the Department will require the grant recipient to secure and record on the deed a covenant limiting the use of the property to the uses outlined in the grant application and the Grant Agreement. The language of the covenant will be determined by the Department and provided to the grant recipient.
- 3) For projects receiving grant assistance for development costs only, terms of this Part and the Grant Agreement shall no longer apply after the following time periods:

<u>Total Grant Award</u>	<u>Time Period After Final Project Billing</u>
\$1 to \$50,000	5 years
For every \$10,000 increment over \$50,000	Add 1 year

- 4) Any portion of the property acquired or developed with RTP grant funds may not be converted to a use other than the public recreation use stated in the grant application and the Grant Agreement without prior Department approval. Approval for property conversion will be granted only if the project sponsor:
- A) substitutes replacement property of at least equal fair market value and comparable in outdoor recreation usefulness, quality and location; or
 - B) repays to the Department an amount equal to the original grant amount or equal to the property's fair market value at the time of noncompliance, whichever is deemed most appropriate by the Department.
- 5) For projects receiving acquisition assistance, the project sponsor shall submit to the Department an appraisal of the land to be used in the project. The Department will review the appraisal and, if it meets Department specifications, the Department will accept that appraisal.
- 6) For projects receiving development assistance, the project sponsor must possess legal control over the property by either fee simple title or by other means (easement, lease, etc.) for at least 25 years. The Department will consider, on a case-by-case basis, lease arrangements for shorter

periods if State statute prohibits a unit of local government from entering into at least a 25-year agreement, or if other circumstances beyond the control of the unit of local government prohibit those arrangements. The sponsor must also adhere to applicable local bidding and procurement requirements and make available to the Department, upon request, all working plans, specifications, contract documents and cost estimates for review prior to commencing work. The format for any advertisement or prospectus soliciting and inviting bids, indicating the dates when the advertisement/prospectus will be released, must also be presented, upon request, to the Department for review prior to publication.

- 7) Prior to construction of RTP grant assisted facilities, the project sponsor shall obtain all necessary permits, licenses or forms of consent, as the case may be, from, but not limited to, the following agencies:
 - A) Illinois Department of Natural Resources, Office of Water Resources;
 - B) Illinois Environmental Protection Agency;
 - C) U.S. Army Corps of Engineers;
 - D) Illinois Department of Public Health (Campground Licensing and Recreational Area Act [210 ILCS 95]);
 - E) Illinois Department of Transportation, Division of Highways; and
 - F) Local building, zoning and road commissions.
- 8) Prior to any trail construction or trail development on sites that have been approved for RTP grant assistance, the project sponsor must comply with the consultation requirements of Section 11(b) of the Illinois Endangered Species Act [520 ILCS 10] and Section 4 of the Illinois State Agency Historic Resources Preservation Act [20 ILCS 3420].
- 9) The project sponsor is required to enter into a Grant Agreement with the Department.
- 10) Upon completion of the project that is the subject of the grant, or as otherwise specified in the Grant Agreement, the project sponsor must submit a signed project billing request (expenditure statement) listing and verifying all funds expended on the project for which grant reimbursement is sought, as well as required billing documentation if applicable, as follows:

- A) Acquisition Project:
 - i) Proof of good faith negotiations or fair market value offer to land seller, copy of property deed, copy of title insurance policy (Judgment Order in case of condemnation) showing ownership transferred to the project sponsor, and copies of canceled checks showing proof of payment to seller; or
 - ii) Proof of a long-term lease between the landowner and the grantee.
 - B) Development Projects: Copy of construction as-built drawings (no larger than 11" x 17") and verification of actual project costs.
- 11) All financial records on approved projects must be maintained and retained in accordance with the Grant Funds Recovery Act [30 ILCS 705], the State Records Act [5 ILCS 160] and any other applicable State laws by the project sponsor for possible State audit after final reimbursement payment is made by the Department. Financial records on approved projects must also be maintained in accordance with federal statute and regulations (e.g., 2 CFR 200.333 (2015)), which may or may not be different from State statute and regulations.
 - 12) The project sponsor must permanently post an RTP grant acknowledgment sign at the project site. The required wording for the RTP sign will be provided by the Department.
 - 13) Projects assisted with RTP grant funds shall be implemented in accordance with all applicable federal, State and local laws, ordinances and regulations relating to public agency expenditure of funds for public works projects.
 - 14) The project sponsor must observe and comply with the provisions of Section 4 of the Prevailing Wage Act [820 ILCS 130], which apply to the wages of laborers, mechanics and other workers employed in any public works, and with the prevailing wage requirements of Section 25-60 of the Illinois Procurement Code [30 ILCS 500].
 - 15) A Department representative may make periodic inspections of the project as construction progresses. A final inspection and acceptance of the completed project may be made by a representative or agent of the Department prior to final payment of grant reimbursement to the project sponsor.

- 16) The project sponsor shall indemnify, protect, defend and hold harmless the Department from any and all liability, costs, damages, expenses or claims arising under, through or by virtue of the construction, operation and maintenance of RTP grant assisted facilities.
- 17) In connection with and prior to the construction and the subsequent operation and maintenance of RTP grant assisted facilities, the project sponsor is responsible for obtaining any and all necessary construction permits, licenses or forms of consent required by law. Failure to obtain any required permits may jeopardize grant funding.
- 18) The project sponsor must comply with and abide by the following operation and maintenance provisions:
 - A) All lands and facilities acquired, constructed or maintained with RTP grant funds shall be:
 - i) continuously operated and maintained by the project sponsor in a safe and attractive manner at no cost to the Department; and
 - ii) operated and utilized in such a manner as to maximize the intended benefits to the public.
 - B) The Department shall have access to RTP grant assisted facilities at all times for inspection purposes to ensure the project sponsor's continued compliance with this Part and the Grant Agreement.
 - C) The project sponsor may enter into a contract or agreement with responsible concessionaires to operate and/or construct facilities for dispensing food to the public and/or any other services as may be desired by the public and the project sponsor for enjoyable and convenient use of the RTP grant assisted site.
 - D) The possession, sale or consumption of alcoholic beverages on RTP grant assisted sites is expressly prohibited.
 - E) The charging of user fees for general public use of RTP grant assisted trails or facilities must be approved by the Department and reflected in the Grant Agreement.
- 19) Conflict of Interest

- A) If the project sponsor is a local government, no official or employee of the local government who is authorized in his or her official capacity to negotiate, make, accept, approve or take part in decisions regarding a contract or subcontract in connection with an approved RTP grant project shall have any financial or other personal interest in that contract or subcontract.
 - B) If the project sponsor is a local government, no person performing services for that local government in connection with an approved RTP grant project shall have a financial or other personal interest other than his or her employment or retention by the local government in any contract or subcontract in connection with an approved RTP grant project. No officer or employee of a person retained by the local government shall have any financial or other personal interest in any real property acquired under an approved RTP grant project unless that interest is openly disclosed on the public records of the local government and that officer, employee or person has not participated in the acquisition for, or on behalf of, the local government.
- 20) The project sponsor shall certify in the Grant Agreement that it provides a drug free workplace and related employee assistance as defined and required by the Drug Free Workplace Act [30 ILCS 580/3].
- 21) Pursuant to Section 2-105(A)(4) of the Human Rights Act [775 ILCS 5], the project sponsor shall maintain a written sexual harassment policy that includes, at a minimum, the following information:
- A) the illegality of sexual harassment;
 - B) the definition of sexual harassment under State law;
 - C) a description of sexual harassment utilizing examples;
 - D) the contractor's internal complaint process, including penalties;
 - E) the legal recourse, investigation and complaint process available through the Illinois Department of Human Rights and the Human Rights Commission and directions on how to contact both; and
 - F) protection against retaliation as provided by Section 6-101 of the Illinois Human Rights Act [775 ILCS 5]. A copy of the policy shall be provided to the Department of Human Rights upon request.

22) Grant Agreement Modification or Termination

- A) In the event that sufficient State funds are not appropriated to meet all the obligations of the RTP, the State will unilaterally rescind Grant Agreements that cannot be funded. DNR may also terminate the grant for other reasons specified in the Grant Agreement.
- B) Except as otherwise provided in subsection (a)(22)(A), after project commencement, Grant Agreements may be rescinded, modified or amended only by mutual agreement with the project sponsor. A project shall be deemed to be commenced when the project sponsor makes any expenditure or incurs any obligation with respect to the project.

23) RTP Violation

Failure by the project sponsor to comply with any of the program terms listed in this Section and the Grant Agreement shall be cause for the suspension of all grant assistance obligations under the Grant Funds Recovery Act, unless, in the judgment of the Department, the failure was due to no fault of the project sponsor (e.g., statutory changes, acts of God).

b) Grant Agreement

Every recipient of a grant under this Section must enter a Grant Agreement with the Department. The purpose of the Grant Agreement is to establish the terms of the grant award and commitments made by the grantee. It shall be signed by the grantee and the Department before any grant funds are paid. The Grant Agreement will:

- 1) describe the grantee;
- 2) describe the project for which the grant is awarded and any land to be acquired with grant funds;
- 3) describe the time period for which the grantee is responsible for the design and implementation of the project;
- 4) describe the amount agreed upon by the Department and grantee as necessary to complete the approved project, specifying the related grant reimbursement amount, and a schedule of proposed expenditures/reimbursements from anticipated start through project completion;

- 5) state the amount of any liability insurance to be required under Section 3090.40;
- 6) state any commitments made by the grantee as a condition of the grant;
- 7) include a statement that the grantee will comply with all requirements of the National Recreational Trails Fund Act (23 USC 206) and related rules, the Outdoor Recreation Resources Act [20 ILCS 860], this Part and the Grant Agreement;
- 8) specify grant payment procedures, recordkeeping and reporting requirements, and auditing requirements;
- 9) include a statement of intellectual property rights, including copyright, patent and any other rights;
- 10) include a statement of the applicability of the Grant Funds Recovery Act [30 ILCS 705];
- 11) indemnify the Department from any liability relative to the project;
- 12) include a statement that the grantee is responsible for any subcontractor's performance;
- 13) reference any provisions that the grantee is required to include in any publicly bid contract for project work (e.g., scale of wages, liability insurance requirements, adherence to the Employment of Illinois Workers on Public Works Act [30 ILCS 570], etc.);
- 14) include any other agreements between the Department and the specific grantee upon which the grant award is contingent.

Section 3090.80 Sale or Transfer of Grant-Funded Property

- a) Real Property
 - 1) If land purchased by grant funds is sold or transferred by operation of law, other than transfer due to the death of the grantee:
 - A) within 5 years after receipt of grant funds, 100% of the grant funding or 100% of the sale price, whichever is greater, must be paid back to the Fund;

- B) in the 6th, 7th or 8th year after receipt of grant funds, 80% of the grant funding or 80% of the sale price, whichever is greater, must be paid back to the Fund;
 - C) in the 9th, 10th or 11th year after receipt of grant funds, 60% of the grant funding or 60% of the sale price, whichever is greater, must be paid back to the Fund;
 - D) in the 12th, 13th or 14th year after receipt of grant funds, 30% of the grant funding or 30% of the sale price, whichever is greater, must be paid back to the Fund; and
 - E) in the 15th year or thereafter, no reimbursement to the Fund is required.
- 2) In cases of catastrophic illness or injury to the grantee or principals of the grantee (e.g., spouses, children and parents) the Director may modify the repayment provisions of subsection (a)(1).
- b) Personal Property
- 1) No personal property purchased with grant funds shall be disposed of without the Department's written consent, which will not be unreasonably withheld. Disposing of personal property without written consent shall require repayment of the grant funding used to purchase the property or the fair market value of the property, whichever is deemed most appropriate by the Department.
 - 2) Any insurance proceeds from personal property that was purchased with grant funds and is accidentally destroyed must be used to replace the destroyed personal property, unless the Department concurs in writing that the insurance proceeds may be used for another purpose.

Section 3090.90 Program Information/Contact

For information on the RTP, contact:

Illinois Department of Natural Resources
Division of Grant Administration
One Natural Resources Way
Springfield IL 62702-1271
Telephone: 217/782-7481
FAX: 217/782-9599
Email: DNR.grants@illinois.gov