



United States Department of Agriculture

## EMERGENCY WATERSHED PROTECTION PROGRAM

MINNESOTA NRCS

# Sponsor's EWP Guide



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## USDA - NATURAL RESOURCES CONSERVATION SERVICE EMERGENCY WATERSHED PROTECTION (EWP) PROGRAM

### SPONSOR'S GUIDE

<b>TABLE OF CONTENTS</b>	<b>Page</b>
Introduction -----	1
Definition .....	1
Declaration of an Emergency.....	2
Types of Emergencies.....	2
Eligible Sponsors -----	3
Financial Assistance -----	3
Applying for EWP Assistance -----	4
Damage Survey Reports -----	4
Contracting for Works of Improvement-----	5
Locally Led Contracting .....	7
Force Account Agreement .....	7
Supporting Documentation -----	7
Landrights -----	7
Permits -----	7
Design Process -----	9
Reimbursement -----	9
Operation and Maintenance-----	9
Frequently Asked Questions -----	10

### APPENDICES

- Appendix A – Sample Letter of Request for EWP Assistance
- Appendix B – SF-424 – Application for Federal Assistance
- Appendix C – SF-424C – Budget Information – Construction Contracts
- Appendix D – SF-424D – Assurances – Construction Contracts
- Appendix E – Minnesota NRCS District Conservationists
- Appendix F – Administrative Readiness Questionnaire
- Appendix H – Sample Attorney's Opinion Letter

## Introduction

The purpose of the Emergency Watershed Protection (EWP) Program was established by Congress to respond to emergencies created by natural disasters. The EWP Program is designed to help people and communities conserve natural resources by relieving imminent hazards to life and property caused by hurricanes, floods, fires, drought, windstorms, and other natural disasters. The U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) administers the EWP Recovery Program.

Watershed impairments that the EWP Program addresses are debris-clogged stream channels or drainage canals, undermined and unstable streambanks or drainage canal banks, jeopardized water control structures and public infrastructures, wind-borne debris removal, and damaged upland sites stripped of protective vegetation by fire or drought.

Financial and technical assistance may be made available through the EWP program by the NRCS State Conservationist (STC) when a watershed impairment is determined to exist. Assistance is available to public or private landowners, land managers, land users, or others who have a legal interest in, or responsibility for the properties threatened by damages associated with the natural disaster. Persons or entities must have exhausted or have insufficient funds or other resources available to provide adequate relief from the applicable hazards and install measures to protect life, homes, businesses, and other properties from further damage due to subsequent storms.

EWP work is not limited to any one set of measures. It is designed for installation of recovery measures to safeguard lives and property as a result of a natural disaster. NRCS completes a Damage Survey Report (DSR) which provides an on-site case-by-case evaluation of the measures necessary to repair or protect a site.

This document is intended to provide an overview of the EWP program. More detailed information about the EWP Program is contained in the National EWP Program Manual, Title 390. The EWP Program Manual can be downloaded from the NRCS eDirectives website: <http://directives.sc.egov.usda.gov/RollupViewer.aspx?hid=26433>

## Emergency Watershed Protection Program

### Definition

The EWP program provides both technical and financial assistance to communities whose watersheds have been impaired by natural disasters. The EWP program is used to restore impaired watersheds to a stable hydrologic function following a natural disaster. The EWP program cannot be used for general maintenance of stream or canal banks and other structures, repair of transportation facilities, or for long-term flood control.

NRCS administers the EWP program through the following authorities:

- Section 216, Public Law 81-516;

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## Sponsor's EWP Guide

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- Section 403 of Title IV of the Agricultural Credit Act of 1978, Public Law 95-334; and
- Section 382, Title III, of the 1996 Farm Bill Public Law 104-127.

Codified rules for administration of the EWP program are set forth in 7 CFR 624.

### Declaration of an Emergency

NRCS may be involved in two different types of emergencies:

- Presidentially Declared Disaster
- Local Disaster

Through Public Law 93-288, the President of the United States can declare an area a “major disaster area”. When a Presidentially declared disaster occurs, the Federal Emergency Management Agency (FEMA) is responsible for coordinating all disaster activities. EWP program assistance may be provided if the NRCS STC determines the EWP program is applicable.

In the absence of a Presidentially declared disaster and when local conditions warrant, the NRCS STC may declare a “local” emergency and, pending funding, provide assistance to eligible sponsors who request EWP program assistance. FEMA is usually not involved in recovery activities for local disasters, creating a greater coordination role for NRCS. In a STC declared emergency, NRCS will take the lead to inform potential sponsors and public about the EWP program and how to apply for assistance.

The EWP program can be used whenever a natural disaster creates a sudden watershed impairment that is a threat to life and/or property. Normal rainfall events and required maintenance activities do not meet these criteria. The term “property” applies to significant structures such as dwellings, office buildings, utilities, bridges, and roads. Land is not defined as property for the EWP program.

Funding for the EWP program is not a budgeted line item for NRCS. Funding for this program is in the form of supplemental appropriations from Congress on an as-needed and available basis. Therefore, funding to carry out this program is never guaranteed to be available at all times.

### Types of Emergencies

There are two categories of emergency work within the EWP program:

- Exigency
- Non-exigency

Exigencies are emergency situations that require an immediate response (1 to 10 calendar days) to protect against an imminent threat to life and/or property. An “imminent threat” is present when there is the potential for a subsequent natural event of the same intensity or less that will cause significant damage to property and/or threaten human life.

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# Sponsor's EWP Guide

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All other situations are termed “non-exigencies” and should be completed, including survey, design, permitting, procurement, and any other activities that will lead to project completion within two hundred and twenty (220) calendar days from the date Minnesota NRCS receives EWP funding.

## Eligible Sponsors

EWP assistance must be administered through an eligible project sponsor. A project sponsor is any legal subdivision of a State government including State agencies, cities, counties, towns, municipal authorities (i.e., drainage districts, water control districts, etc.), Soil and Water Conservation Districts, Chapter 298 Districts, Native American Tribe or Tribal organization as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. section 450b), etc.

A project sponsor must:

- have a legal interest in, or responsibility for, the areas threatened by a watershed emergency,
- be capable of obtaining necessary land rights and required permits,
- be capable of performing all required operation and maintenance (O&M) responsibilities,
- be capable of administering contracts when part of a locally led agreement, and
- provide local cost share of construction cost.

## Financial Assistance

NRCS provides cost share for construction services and technical services. Cost share for construction services is termed financial assistance (FA) and cost share for technical services is termed technical assistance (TA).

NRCS provides FA funds for up to 75 percent of the construction services costs for installing eligible emergency measures to protect lives and property. Sponsors are responsible for providing their 25 percent cost-share, obtaining the necessary permits and landrights, developing construction plans and specifications, contracting for installing the work, and providing for the operation and maintenance of completed emergency measures.

Counties/communities that have depressed economies are referred to as “limited resource areas” may be eligible for 90 percent of the eligible construction costs to complete the project. To be considered a limited resource area, the county must meet all three of the following criteria:

- average housing values must be less than 75 percent of the state average housing value;
- per capita income must be 75 percent or less than the median income for the nation; and
- unemployment rate must be twice the U.S. average over the past three years.

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## Sponsor's EWP Guide

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NRCS provides TA funds for surveys, design, geotechnical analysis, inspection, contract preparation and contract administration performed by the sponsor. TA is usually limited to 7.5 percent of the eligible construction cost. Sponsors are responsible for covering any of the remaining TA expenses above the 7.5 percent.

Permitting fees, legal expenses associated with obtaining land rights, and legal opinions of contracting activities do not qualify for TA assistance and will be the responsibility of the sponsor.

### **Applying for EWP Assistance**

Following a natural disaster, if a sponsor believes they are eligible for EWP assistance, the following steps will be used for requesting assistance.

- Sponsor submits a formal letter of request to the NRCS STC for EWP assistance, within ten (10) calendar days of the disaster for exigency sites and within sixty (60) calendar days of the disaster for non-exigency sites. See Appendix A for a sample letter of request.
- NRCS field staff will contact the sponsor to schedule site visits to review each site. Information for contacting Minnesota NRCS District Conservationists can be found in Appendix E.
- NRCS and the sponsor will complete a damage survey report (DSR) for each site damaged from natural disasters. Sponsors will determine priorities for emergency assistance and coordinate work with other Federal and local agencies.
- Completed DSRs will be transmitted by NRCS field staff to the Minnesota NRCS EWP Program Manager (PM) for review and determination of eligibility within sixty (60) calendar days of the sponsor's request for assistance.
- Minnesota NRCS will request funding from NRCS National Headquarters for site and funding approval.
- Upon receipt of funding, NRCS will enter into an agreement with the sponsor to repair eligible sites approved for funding.

### **Damage Survey Reports**

The Damage Survey Report (DSR) is used to document damage caused by a natural disaster, repair methods, and estimated costs required to correct the problem. It is important to complete the DSR as completely and accurately as possible since it is the document used to determine eligibility and justify the expenditure of EWP funds. The costs and benefits computed for the DSR are estimates; however, they should be reasonable and based on the best professional judgment. It is not expected that an excessive amount of time be expended completing the DSR. Generally, a majority of the DSR can be completed on-site, based on conditions observed, and with minimal surveys and other measurements.

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## Sponsor's EWP Guide

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For a site to be eligible for EWP program assistance, all of the following questions must be answered **YES**.

1. Was the damage the result of a natural disaster (e.g. damage to structures residential or commercial, infrastructure, etc.)?
2. Are recovery measures for runoff retardation or soil erosion prevention? (e.g. erosion damage to canal banks, roads, sediment blocking drainage, etc.; potential for increased erosion damages due to lack of groundcover).
3. Is there a threat to life and/or property?
4. Did the event caused a sudden impairment to the watershed?
5. Was an imminent threat created by this event?
6. For structural repairs, the site has not been previously repaired twice using EWP funds within the last ten years?
7. Are economic, environmental, and social documentation adequate to warrant action?
8. Is the proposed action technically sound?

Work completed before the execution of an agreement with NRCS is not eligible for cost share.

### **Contracting for Works of Improvement**

The contracting mechanism used for implementing EWP recovery efforts in Minnesota will be through a cooperative agreement between the sponsor and NRCS. NRCS will provide the funding and technical and administrative support to the sponsors. The sponsor will be responsible for managing the planning, design, contracting, installation and certification of approved eligible measures within the allotted time frame.

Sponsors must meet the criteria in the National Contracts, Grants, and Cooperative Agreement Manual Procurement Standards giving special attention to Parts 510.31 through 510.34 and 510.50. Sponsors must have a financial management system in place that meets requirements of 7 CFR 3016.20. In addition, sponsors must have procurement standards in place to meet the requirements of 7 CFR 3016.36. Appendix F contains the Administrative Readiness Questionnaire and may help to determine if a potential sponsor is adequately prepared to administer EWP funds. The NRCS Grant and Agreement (G&S) Specialist can provide assistance in determining whether or not a sponsor meets these requirements.

If a sponsor is not adequately equipped to directly administer EWP funds, they must retain the services of an organization with the required capabilities to assist in administering EWP funds.

As soon as Minnesota NRCS has been notified that EWP funds are available, NRCS will notify the sponsor and prepare a cooperative agreement consisting of the Statement of Work (SOW) and the ADS-093 Notice of Grant and Agreement Award for the sponsor's signature. The ADS-093 obligates funds for the repair and establishes the performance time period (220



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## Sponsor's EWP Guide

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calendar days for non-exigency and 10 calendar days for exigency projects). The performance time starts as soon as Minnesota NRCS receives EWP funds for the event.

To enter into an agreement for assistance, sponsors must have a Dun and Bradstreet Data Universal Numbering System (DUNS) number and register with the Central Contractor Registration (CCR) in the System for Award Management (SAM) database <https://www.sam.gov/>.

The CCR registration **must be renewed at least once every 12 months to remain valid and to be eligible to receive payments**. These requirements are mandated by the Federal Funding Accountability and Transparency Act (the Transparency Act), and implemented through the Office of Management and Budget regulations at 2 CFR Part 25. It is the sponsor's responsibility to take all required actions.

All vendors, with whom NRCS does business, must be paid through electronic funds transfer (EFT). Vendors must be registered with the SAM database <https://www.sam.gov/>. Information required for payment includes: DUNS number, Tax ID number; vendor name; vendor address; banking information (bank routing number, account type, account number); SAM registration; EFT waiver request (if applicable).

Sponsors must submit the following forms prior to entering into a cooperative agreement for EWP assistance:

- SF 424 – Application for Federal Assistance (see Appendix B)
- SF-424C – Budget Information – Construction Contracts (see Appendix C)
- SF-424D – Assurances – Construction Contracts (see Appendix D)

During performance of the cooperative agreement, NRCS will appoint a Project Manager to provide technical assistance. The sponsor will administer the project with minimal agency collaboration, participation, or intervention as long as it is performed in accordance with the terms of the cooperative agreement. NRCS oversight will include the following:

- Review of National Environmental Policy Act (NEPA) requirements.
- Review and concurrence of recipient construction plans and specification prior to award.
- Normal Federal management during the project such as site visits, performance reports, financial reporting, and audits to ensure that standards, objectives, terms, and conditions of the project are accomplished.
- General statutory requirements agreed to in advance of the award such as civil rights, environmental protection, and provisions for the handicapped.
- Review of performance after completion.
- Involvement to correct deficiencies in project or financial performance in accordance with the terms of the agreement.

There are two types of agreements used for EWP in Minnesota:

- Locally Led Contracting

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# Sponsor's EWP Guide

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- Force Account Contracting

In both type of agreements, the sponsor will be responsible for completing the survey, designs, engineering plans and specifications, contracting, and construction inspection. General Terms and Conditions, as required, are attached to the agreement.

## Locally Led Contracting

The sponsor awards and administers the construction contract using applicable state, local and Federal laws and regulations. The sponsor completes a solicitation package notifying interested bidders. The sponsor will also conduct a site showing, issue amendments, conduct the bid opening, abstract the bids, evaluate the apparent low bidder, award the contract, obtain applicable bonds, issue notice to proceed and administer the contract. The sponsor is required to keep detailed reports of expenses incurred to support their requests for reimbursement of eligible costs.

## Force Account Agreement

Sponsor will complete the work with their own equipment, work force and supervisory personnel, and must be experienced in performing the type of construction required. In some cases equipment may be rented, with or without operators, to supplement their own work force. An agreement and plan of work will be signed prior to the sponsor beginning work. The plan of work must be reviewed and concurred by NRCS. NRCS will reimburse 75 percent of the actual eligible cost of construction. The sponsor is required to keep detailed reports of expenses (labor, equipment, materials, etc.) incurred to support their requests for reimbursement of eligible costs.

## **Supporting Documentation**

EWP sponsors are subject to provisions of the Single Audit Act (OMB Circular A-128, April 12, 1985). Files should be maintained on each EWP funded agreement for a period of three (3) years after the project is completed. If the project is the object of litigation that begins before the end of the three-year period, records will need to be maintained until the end of the litigation or the three-year period, whichever is longer.

## **Landrights**

The sponsor must possess the legal authority to obtain landrights. The sponsor is responsible to obtain the necessary real property rights, including any rights needed for the relocation of fences, utilities, etc., and submitting a signed Form NRCS-ADS-78, "Assurances Relating to Real Property Acquisition", (see Appendix G) and a signed attorney's opinion.

## **Permits**

EWP work often involves construction in and along streams. The Federal Section 404 Clean Water Act requires a permit for any construction activity that involves the placement of dredged or fill materials in "Waters of the United States." These waters include navigable waters and tributaries, interstate waters and tributaries, and any other waters including lakes, intermittent

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## Sponsor's EWP Guide

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streams, and wetlands. Permit process should start early enough to allow sufficient time to obtain permits in order to complete restoration work within the 220-day timeframe.

Generally in-stream EWP construction activities do not require an individual 404 Permit. The type and extent of work encountered on EWP projects is usually covered by one of the Nationwide Permits discussed below.

Nationwide Permit (NWP) 13 Bank Stabilization - Applies to bank stabilization activities necessary for erosion prevention where:

- No material is placed in excess of the minimum needed for erosion protection;
- The activity is no more than 500 feet in length along the bank, unless the district engineer waives this criterion by making a written determination concluding that the discharge will result in minimal adverse effects;
- The activity will not exceed an average of one cubic yard per running foot placed along the bank below the plane of the ordinary high water mark or the high tide line, unless the USACE district engineer waives this criterion by making a written determination concluding that the discharge will result in minimal adverse effects;
- The activity does not involve discharges of dredged or fill material into special aquatic sites, unless the district engineer waives this criterion by making a written determination concluding that the discharge will result in minimal adverse effects;
- No material is of a type, or is placed in any location, or in any manner, that will impair surface water flow into or out of any waters of the United States;
- No material is placed in a manner that will be eroded by normal or expected high flows (properly anchored trees and treetops may be used in low energy areas); and
- The activity is not a stream channelization activity.

Notification will be given to the United States Army Corps of Engineers (USACE) when bank stabilization activities exceed 500 feet in length or fill exceeds an average of one cubic yard per running foot.

NWP 37 Emergency Watershed Protection and Rehabilitation - Applies to work done by or funded by NRCS qualifying as an “exigency” situation, under the Emergency Watershed Protection Program.

Sponsors are required to consult with USACE and United States Fish and Wildlife Service (USFWS) for any “in stream” projects.

## Design Process

Prior to starting the design of the measures, the sponsor's engineer shall meet with the NRCS Project Manager to discuss the design parameters. If available, NRCS will provide standard drawings and details used for similar sites. The design process will be as follows.

1. Sponsor will schedule a pre-design conference with the NRCS Project Manager to set design parameters and schedule of work.
2. Sponsor will submit draft plans and specifications to NRCS for review and concurrence by NRCS Project Manager.
3. Sponsor will provide NRCS a final copy of construction plans and specifications signed and sealed by a registered professional engineer, quality assurance plan, and operation and maintenance plan prior to start of construction and preferably prior to bid solicitation for locally led contracting.
4. Upon the completion of the design and prior to starting construction, the sponsor's engineer will prepare and submit to the NRCS Project Manager a quality assurance plan that addresses the items to be inspected and the intensity of the inspection necessary to ensure the construction is in accordance with the plans and specification.

## Reimbursement

Sponsors requesting reimbursement for EWP approved repair costs must submit a completed form SF-270 "Request for Advance or Reimbursement" and include documentation for any eligible expenditure that has not been previously submitted. Documentation will include, as a minimum, a certification of completion signed by the sponsor and a summary (labor, materials, equipment, contracts, etc.) of the actual eligible construction cost.

Form SF-270, "Request for Advance or Reimbursement" can be submitted as often as needed to receive reimbursement. Sponsors will be paid by electronic funds transfer EFT in approximately 14 days after the reimbursement request is approved by NRCS.

## Operation and Maintenance

The sponsor will implement the operation and maintenance plan on all EWP structural measures. NRCS may periodically visit the site to determine if the measure is functioning as planned.

Sample operation and maintenance (O&M) plan can be supplied by NRCS.

## Frequently Asked Questions

- 1. Q What is a “sudden watershed impairment”?**

A A sudden watershed impairment is caused by a natural disaster and is widespread over a watershed area. The damage renders the streams, creeks, and drainage ways incapable of their normal function and threatens life or property.
- 2. Q How do we request EWP help and how soon do we need to ask for help after the disaster event?**

A A sponsor can apply for EWP help at the local NRCS office. A formal letter of request to the NRCS STC should be sent as soon as possible after conditions permit access to the damaged areas, but no later than 10 days after the storm event for exigency sites and 60 days for non-exigency sites. (See Appendix A for example of a letter of request).
- 3. Q Can EWP funds be used on a non-Presidential-declared disaster?**

A Yes. The NRCS STC can declare a localized disaster.
- 4. Q When a Presidential-declared disaster exists, who coordinates emergency activities for the various programs?**

A Minnesota Recovery Task Force and/or local EMC will coordinate state activities. FEMA generally provides Federal guidance.
- 5. Q For disasters related to rainfall, what distinguishes between a normal storm event and a rainfall that would be considered a disaster?**

A This is generally site and event specific, as a long period of rainfall followed immediately by an intense rain can generate a widespread disaster and/or flood. Individual rainfalls should be at least a 25-year rainfall amount for the rainfall duration (Refer to NOAA's TP40). For example, if the individual storm lasted for 3 hours, the rainfall should exceed the 25-year, 3-hour rainfall amount.

[http://www.nws.noaa.gov/oh/hdsc/PF\\_documents/TechnicalPaper\\_No40.pdf](http://www.nws.noaa.gov/oh/hdsc/PF_documents/TechnicalPaper_No40.pdf)
- 6. Q What can be used to satisfy the sponsor's 25 percent cost-share requirement when the construction work is contracted out (Locally Led Contract**

A Either cash or “in-kind” construction services or a combination of the two. In-kind construction services include costs associated with materials, equipment, and labor.
- 7. Q What is an exigency site and how long does the sponsor have to fix such a site?**

A An exigency situation exists if there is an immediate threat of damage to life or property- immediate action must be taken. After the sponsor is notified that funds are available, work on an exigency site must be completed within 10 days.

8. **Q How long does the sponsor have to complete work on non-exigency sites?**
- A All sites should be *repaired* as soon as possible. However, work on non-exigency sites must be completed within 220 days after the EWP funds have been made available to Minnesota NRCS. On smaller projects, less than 220 days may be required.
- 9 **Q The sponsor has decided to perform the work associated with EWP**
- A NRCS will reimburse 75 percent of the work-related construction expenses for materials incorporated into the site, and labor and equipment used to perform the work.
10. **Q What types of easements are required for EWP work?**
- A For permanent, long-life measures that are off the sponsor's right-of-way (R.O.W.), permanent easements should be obtained. *Work* permits may be adequate for work consisting of shaping, vegetation, and minor rock structures. The sponsors are responsible for obtaining the easements or permits they deem necessary for accomplishing the work and for providing future maintenance. The sponsors must provide NRCS written assurance that the necessary easements and permits have been obtained, but they do not have to provide copies of the easements. Any legal costs associated with obtaining land rights are NOT reimbursable costs.
11. **Q Which sites must have a site-specific O&M Plan prepared?**
- A Permanent, long-life measures such as gabion structures, large pipe drop structures, large grade stabilization *structures*, etc., require a formal Operation and Maintenance (O&M) Plan. O&M on these sites is required for at least five years.
12. **Q What kinds of damage are eligible for repair under the EWP program?**
- A Typical examples that threaten life or property are:
- Head-cutting gullies.
  - Severely eroded stream banks and drainage ditches.
  - Landslides.
  - Wildfire damage.
  - Tornado and flood debris in streams.
  - Channel stabilization at culverts and bridges.
  - Recent sediment deposits in streams and drainage ditches.
  - Debris from wind or ice storms.

**13. Q What kinds of damage are NOT eligible for repair under the EWP program?**

- A** The following are damages that are not eligible for EWP assistance:
- Damage that would be expected from a “normal” storm event. This is considered routine operation and maintenance.
  - Damage that existed before the disaster event.
  - Repair of infrastructure (i.e. roads, bridges, etc.).
  - Washed-out road fills, road surfaces, bridges, culverts, utilities, and similar structures.
  - Erosion that threatens only farmland, woodland, or pastureland.
  - Damage to beaches, dunes, or shorelines.
  - Damage to structures installed by other federal agencies, such as canals and drainage channels built by the USACE.

**14. Q Are landslides eligible for EWP assistance?**

- A** If the slide threatens life or property and is a sudden impairment, it could qualify for EWP assistance.

EXAMPLE: A hillside adjacent to a roadway experiences a slope failure during a storm event. The *slide* has filled the road ditch and has blocked the waterway. Removal of the slide material and stabilization of the site would qualify for EWP assistance assuming economic and other criteria were met.

**15. Q What is an example of a landslide that would not qualify?**

- A** A slide that is wholly or primarily within the road fill is considered reconstruction of the transportation facility and would not be eligible for EWP assistance. Another example is a roadside cut that has a history of shallow slides that frequently deposit material in the road ditch. This is considered a pre-existing problem and repair would be considered normal O&M for the site.

**16. Q Can a site be fixed that has needed continual operation and maintenance work for years prior to the storm event?**

- A** No. EWP funds are not to be used to fix pre-existing problems unless the damage due to the storm *event* is significantly greater than the pre-existing condition of the site. NRCS will assess the site and determine if damage is due to lack of O&M or if it is due to a specific storm event. The watershed impairment has to have occurred in the event(s) associated with the request for assistance. The purpose of the EWP program is to fix impairments related to disasters and not to provide maintenance for infrastructure.

**17. Q A gully is threatening a federal aid highway. Can the EWP program be used to stabilize the gully and protect the road?**

- A** No. The federal aid highway is eligible for the Emergency Relief Program administered by the Federal *Highway* Administration of the Department of Transportation (DOT).

18. **Q What if no federal highway funds are available for this storm event?**  
A It does not matter. If the site is “eligible” for the highway program, it is not eligible for EWP assistance.
19. **Q Can EWP funds be used to construct a new channel to provide the drainage necessary for protection from flooding that is creating a hazard to life and property?**  
A No. EWP *funds* cannot be used to construct a new channel, realign a channel, or do work that increases the pre-disaster capacity of a channel.
20. **Q A large gully existed off the right-of-way of a county road prior to the big flood. The rains associated with the flood caused the gully head cut to move and threaten the road. Can EWP funds be used to stabilize the gully and protect the road?**  
A Yes.
21. **Q A county road has been completely cut through by a gully during the storm event. Can EWP funds be used to rebuild the road?**  
A No. EWP funds cannot be used to repair or rebuild public facilities. If the event caused a grade stabilization problem downstream, EWP funds could be utilized to solve that situation.
22. **Q An eligible site can be adequately repaired and stabilized with riprap. The design engineer wants to design for a permanent solution including concrete and pipe. Can this be allowed in the EWP program?**  
A The riprap solution is all that can be paid for in the EWP program. Any additional costs associated with a more expensive alternative solution must be incurred by the sponsor.
23. **Q A stream bank is eroding and threatening cropland. Can EWP funds be used to riprap the stream bank to protect the field?**  
A No. EWP *funds* cannot be used to protect cropland or pastureland. Other programs are available for this.
24. **Q A farm pond is immediately upstream of a county road. The flood has caused the emergency bypass of the pond to erode severely. If the pond should fail, the road will be washed out. Can EWP funds be used to stabilize the emergency bypass of the pond?**  
A Yes. In this case there is more than one beneficiary. The county or other appropriate body must agree to *sponsor* the repair. Normally repairs to farm structures are performed with other programs such as Emergency Conservation Program (ECP). However, where there is a clear threat to public property, repairs can be made with EWP funds.



25. **Q** A site qualifies for assistance based on the type of damage; however, the economic benefits are significantly less than the cost of restoration. What are the alternatives?
- A In some cases the site would be eligible for assistance without economic justification. If there is a clear and significant hazard to life, or if the damage completely isolates residences or businesses from fire *and* emergency team access, the site may qualify.
26. **Q** Can a prior EWP funded site be eligible for financial assistance during a subsequent event?
- A Yes, but no more than twice in a 10-year period. The intent of the EWP program is to provide emergency repairs to restore sites to their pre-storm condition. It is expected that sponsors would make additional improvements as needed to insure long-term stability. Debris removal sites are not subject to the “twice in 10 years” restriction.
27. **Q** A gully below a road is being repaired with an EWP agreement. During construction it is discovered that the culvert invert is rusted out. Can the culvert be replaced with EWP funds?
- A No. Repair and replacement of transportation facilities (roads and bridges) is not eligible for EWP *assistance*. The sponsor may have the contractor replace the culvert while working on the site, but the total cost for replacement of the culvert will be the responsibility of the sponsor.
28. **Q** The county (or city) has already performed emergency repair work at a location prior to requesting assistance from the EWP program. Can this work that has already been performed be reimbursed through the EWP program?
- A No.
29. **Q** How detailed do construction drawings have to be?
- A Drawings only need to be as detailed as is necessary to convey the information required to *construct* the work. The amount of detail should be commensurate with the complexity of the site. For force account work, simple pencil drawings may be adequate. Keep in mind that formal contracts generally require more details and should be more specific to avoid contract disputes.
30. **Q** Do all engineering plans developed by the sponsor need to have a P.E. seal?
- A Yes, *except* for debris removal.

- 31. Q Do NRCS engineers have to review all plans developed by the sponsor's engineer?**
- A** No. However, the NRCS Project Manager assigned to the project will provide a cursory review of the engineering plans and specifications. All NRCS review comments are to be incorporated into the plans. Upon agreement with the plans and specifications, the NRCS engineer will concur with the engineering plans and specifications.
- 32. Q What construction specifications are used for EWP work?**
- A** The sponsor's engineer may develop specifications, use MNDOT specifications, or use specifications provided by NRCS. NRCS construction specifications are available in MSWord or PDF (Portable Document Format) format on the NRCS web site <https://directives.sc.egov.usda.gov/> ; under "Handbooks"; Title 210 – Engineering, National Engineering Handbook; Section 642, Specifications. Items of Work and Construction Details specific to the site must be added by the designer. Ultimately, the engineer is responsible for the construction specifications.
- 33. Q EWP work involves removal of debris from a stream. Can equipment be used in the bottom of the streambed to do this work?**
- A** Generally, no. All work must be performed in the most environmentally sensitive manner possible. When possible, debris removal from a stream should be performed with heavy equipment from the top of the streambank. Only disaster related debris can be removed.
- 34. Q Who performs the final inspections?**
- A** The sponsor is responsible for inspections to insure that repairs are completed as designed. NRCS personnel will look at each site to confirm that the repair was made and in-keeping with the work that was planned for the site. NRCS will not do an item-by-item inspection. However, if any critical deficiencies are noted by NRCS personnel, they must be corrected before final payment is reimbursed.
- 35. Q Can some of the sites in a cooperative agreement be paid before all the sites included in the agreement are complete?**
- A** Yes. SF-270, Request for Advance or Reimbursement may be submitted for one or groups of completed sites. The sponsor will have to pay for the works of improvement prior to reimbursement and provide supporting documentation to justify the reimbursement. It is the sponsor's responsibility to track expenses (labor, materials, equipment, services) and keep accurate records for reimbursement.

- 36. Q What should be done if a cost-overrun occurs?**
- A** As soon as it is apparent that repair costs will exceed the estimate, notify the NRCS Project Manager and request an amendment to the cooperative agreement. If the additional costs are justified, *normally* there will be no problem obtaining the additional funds. However, if EWP funds are exhausted, NRCS may be able to pay only the amount obligated in the cooperative agreement.
- 37. Q If the sponsors are unable to complete the agreed-to-work within the allotted time, what should they do?**
- A** They should notify the NRCS Project Manager and request a time extension to the NRCS STC at least 30 days prior to the agreement completion date. If they are working *diligently* to complete the work and delays have been outside the sponsor's control, an extension will generally be granted.
- 38. Q Are PL-566 structures eligible for EWP assistance?**
- A** Yes.
- 39. Q Once the work is completed and the sponsors have submitted a request for payment, how long will it be before they receive payment?**
- A** Payment is usually made within 10 to 14 business days.

# Sponsor's EWP Guide

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## Appendices

Appendix A – Sample Letter of Request for EWP Assistance

Appendix B – SF-424 - Application for Federal Assistance

Appendix C – SF-424C - Budget Information – Construction Contracts

Appendix D – SF-424D - Assurances – Construction Contracts

Appendix E – Minnesota NRCS District Conservationists

Appendix F – Administrative Readiness Questionnaire

Appendix G – Form NRCS-ADS-78 – Assurances Relation to Real Property Acquisition

Appendix H – Sample Attorney's Opinion Letter

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# Sponsor's EWP Guide

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## Appendix A – Sample Letter of Request for EWP Assistance

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<SPONSOR'S LETTERHEAD>

<Enter Date>

Troy Daniell  
State Conservationist

Natural Resources Conservation Service  
375 Jackson Street, Suite 600  
St. Paul, MN 55101

Dear Mr. Daniell:

We request Federal assistance under the provisions of Section 216 of the Flood Control Act of 1950, Public Law 81-516 or Section 403 of the Agricultural Credit Act of 1978, Public Law 95-334, to restore damages sustained in <Enter County Name> County by storms of <Enter name and/or type of disaster that occurred> on <Enter date disaster occurred>. This work is needed to safeguard lives and property from an imminent hazard of <Enter hazard type>.

We understand, as sponsors of an Emergency Watershed Protection (EWP) Program project, that our responsibilities will include acquiring land rights and any permits needed to construct, and if required, to operate and maintain the proposed measures. We are prepared to provide local <Enter type of local contribution> of the cost of construction work in dollars or in-kind services.

The names, addresses, and telephone numbers of the administrative and technical contact persons in our organization are as follows:

<Enter Name>  
<Enter Title>  
<Enter Address>  
<Enter Telephone #>  
<Enter Email address>  
<Enter FAX # of Sponsor's Representative>

Please contact <Enter Name of Sponsor's Representative> for any additional information that you might need in assessing our request.

Sincerely,

<Enter Name>  
<Enter Title>

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# Sponsor's EWP Guide

## Appendix B – SF-424 – Application for Federal Assistance

OMB Number: 4040-0004 Expiration Date: 8/31/2016		
<b>Application for Federal Assistance SF-424</b>		
<b>* 1. Type of Submission:</b> <input type="checkbox"/> Preapplication <input type="checkbox"/> Application <input type="checkbox"/> Changed/Corrected Application	<b>* 2. Type of Application:</b> <input type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision	* If Revision, select appropriate letter(s): <input style="width: 100%;" type="text"/> * Other (Specify): <input style="width: 100%;" type="text"/>
* 3. Date Received: <input style="width: 100%;" type="text"/>	4. Applicant Identifier: <input style="width: 100%;" type="text"/>	
5a. Federal Entity Identifier: <input style="width: 100%;" type="text"/>	5b. Federal Award Identifier: <input style="width: 100%;" type="text"/>	
<b>State Use Only:</b>		
6. Date Received by State: <input style="width: 100%;" type="text"/>	7. State Application Identifier: <input style="width: 100%;" type="text"/>	
<b>8. APPLICANT INFORMATION:</b>		
* a. Legal Name: <input style="width: 100%;" type="text"/>		
* b. Employer/Taxpayer Identification Number (EIN/TIN): <input style="width: 100%;" type="text"/>	* c. Organizational DUNS: <input style="width: 100%;" type="text"/>	
<b>d. Address:</b>		
* Street1: <input style="width: 100%;" type="text"/>	Street2: <input style="width: 100%;" type="text"/>	
* City: <input style="width: 100%;" type="text"/>	County/Parish: <input style="width: 100%;" type="text"/>	
* State: <input style="width: 100%;" type="text"/>	Province: <input style="width: 100%;" type="text"/>	
* Country: <input style="width: 100%;" type="text"/>	USA: UNITED STATES	
* Zip / Postal Code: <input style="width: 100%;" type="text"/>		
<b>e. Organizational Unit:</b>		
Department Name: <input style="width: 100%;" type="text"/>	Division Name: <input style="width: 100%;" type="text"/>	
<b>f. Name and contact information of person to be contacted on matters involving this application:</b>		
Prefix: <input style="width: 100%;" type="text"/>	* First Name: <input style="width: 100%;" type="text"/>	
Middle Name: <input style="width: 100%;" type="text"/>		
* Last Name: <input style="width: 100%;" type="text"/>		
Suffix: <input style="width: 100%;" type="text"/>		
Title: <input style="width: 100%;" type="text"/>		
Organizational Affiliation: <input style="width: 100%;" type="text"/>		
* Telephone Number: <input style="width: 100%;" type="text"/>	Fax Number: <input style="width: 100%;" type="text"/>	
* Email: <input style="width: 100%;" type="text"/>		

# Sponsor's EWP Guide

## Application for Federal Assistance SF-424

\* 9. Type of Applicant 1: Select Applicant Type:

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

\* Other (specify):

\* 10. Name of Federal Agency:

11. Catalog of Federal Domestic Assistance Number:

CFDA Title:

\* 12. Funding Opportunity Number:

\* Title:

13. Competition Identification Number:

Title:

14. Areas Affected by Project (Cities, Counties, States, etc.):

Add Attachment

Delete Attachment

View Attachment

\* 15. Descriptive Title of Applicant's Project:

Attach supporting documents as specified in agency instructions.

Add Attachments

Delete Attachments

View Attachments



# Sponsor's EWP Guide

Application for Federal Assistance SF-424	
<b>16. Congressional Districts Of:</b>	
* a. Applicant <input type="text"/>	* b. Program/Project <input type="text"/>
Attach an additional list of Program/Project Congressional Districts if needed. <input type="text"/> <input type="button" value="Add Attachment"/> <input type="button" value="Delete Attachment"/> <input type="button" value="View Attachment"/>	
<b>17. Proposed Project:</b>	
* a. Start Date: <input type="text"/>	* b. End Date: <input type="text"/>
<b>18. Estimated Funding (\$):</b>	
* a. Federal	<input type="text"/>
* b. Applicant	<input type="text"/>
* c. State	<input type="text"/>
* d. Local	<input type="text"/>
* e. Other	<input type="text"/>
* f. Program Income	<input type="text"/>
* g. TOTAL	<input type="text"/>
<b>* 19. Is Application Subject to Review By State Under Executive Order 12372 Process?</b>	
<input type="checkbox"/> a. This application was made available to the State under the Executive Order 12372 Process for review on <input type="text"/>	
<input type="checkbox"/> b. Program is subject to E.O. 12372 but has not been selected by the State for review.	
<input type="checkbox"/> c. Program is not covered by E.O. 12372.	
<b>* 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)</b>	
<input type="checkbox"/> Yes <input type="checkbox"/> No	
If "Yes", provide explanation and attach <input type="text"/> <input type="button" value="Add Attachment"/> <input type="button" value="Delete Attachment"/> <input type="button" value="View Attachment"/>	
<b>21. *By signing this application, I certify (1) to the statements contained in the list of certifications** and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)</b>	
<input type="checkbox"/> ** I AGREE	
** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.	
<b>Authorized Representative:</b>	
Prefix: <input type="text"/>	* First Name: <input type="text"/>
Middle Name: <input type="text"/>	
* Last Name: <input type="text"/>	
Suffix: <input type="text"/>	
* Title: <input type="text"/>	
* Telephone Number: <input type="text"/>	Fax Number: <input type="text"/>
* Email: <input type="text"/>	
* Signature of Authorized Representative: <input type="text"/>	* Date Signed: <input type="text"/>

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# Sponsor's EWP Guide

## Appendix C – SF-424C – Budget Information – Construction Contracts

OMB Number: 4040-0008  
Expiration Date: 06/30/2014

[View Burden Statement](#)

<b>BUDGET INFORMATION - Construction Programs</b>			
COST CLASSIFICATION	a. Total Cost	b. Costs Not Allowable for Participation	c. Total Allowable Costs (Columns a-b)
1. Administrative and legal expenses	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
2. Land, structures, rights-of-way, appraisals, etc.	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
3. Relocation expenses and payments	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
4. Architectural and engineering fees	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
5. Other architectural and engineering fees	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
6. Project inspection fees	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
7. Site work	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
8. Demolition and removal	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
9. Construction	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
10. Equipment	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
11. Miscellaneous	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
12. SUBTOTAL (sum of lines 1-11)	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
13. Contingencies	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
14. SUBTOTAL	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
15. Project (program) income	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
16. TOTAL PROJECT COSTS (subtract #15 from #14)	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
FEDERAL FUNDING			
17. Federal assistance requested, calculate as follows: (Consult Federal agency for Federal percentage share.) Enter the resulting Federal share.	Enter eligible costs from line 16c Multiply X <input type="text"/> %		\$ <input type="text"/>

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# Sponsor's EWP Guide

## Appendix D – SF-424D – Assurances – Construction Contracts

OMB Approval No. 0348-0042

### ASSURANCES - CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0042), Washington, DC 20503.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

**NOTE:** Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the Awarding Agency. Further, certain Federal assistance awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure non-discrimination during the useful life of the project.
4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progress reports and such other information as may be required by the assistance awarding agency or State.
6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
10. Will comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

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Prescribed by OMB Circular A-102

# Sponsor's EWP Guide

<p>11. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.</p> <p>12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.</p> <p>13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333) regarding labor standards for federally-assisted construction subagreements.</p> <p>14. Will comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.</p> <p>15. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the</p>	<p>National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).</p> <p>16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.</p> <p>17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).</p> <p>18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."</p> <p>19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.</p>
SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED
SF-424D (Rev. 7-97) Back	

# Sponsor's EWP Guide

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## Appendix E – Minnesota NRCS District Conservationists

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Local NRCS county contact information can be found on the following web site.

<https://www.nrcs.usda.gov/wps/portal/nrcs/mn/contact/local/>

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# Sponsor's EWP Guide

## Appendix F – Administrative Readiness Questionnaire

### ADMINISTRATIVE READINESS QUESTIONNAIRE

The purpose of this questionnaire is to help determine if a sponsor is adequately equipped to administer EWP funds. If an applicant is not equipped, the applicant may be asked to retain the services of a qualified organization to assist in administering EWP funds. Please complete the entire questionnaire as candidly as possible. A copy of this questionnaire must be returned to NRCS (address below) before an EWP cooperative agreement will be executed with a sponsor.

USDA/NRCS/State Office  
ATTN: EWP Program Manger  
375 Jackson Street, Suite 600  
St. Paul, Minnesota 55101

Sponsor: \_\_\_\_\_

(Name and Mailing Address) \_\_\_\_\_

Phone: \_\_\_\_\_ FAX: \_\_\_\_\_

Name and Title of Person Completing Questionnaire:

\_\_\_\_\_ Please Type or Print \_\_\_\_\_ Signature

1. Have you or your staff administered grants or loans from other federal programs in the past?  
\_\_\_\_\_  
If yes, please list the federal agencies involved: \_\_\_\_\_
2. Have you or your staff previously:  
\_\_\_\_\_  
Obtained performance bonds from a contractor performing work under a contract funded totally or in part with federal dollars,  
\_\_\_\_\_  
Completed actions in compliance with a Free and Open competition clause in a contract funded totally or in part with federal dollars,  
\_\_\_\_\_  
Prepared a contract solicitation package for a project that included federal assistance funds and was in accordance with the Code of Minnesota, or  
\_\_\_\_\_  
Incorporated and monitored actions related to federal environmental standards in contracts funded totally or in part with federal dollars.
3. Are you or your staff personally familiar with federal requirements related to:  
\_\_\_\_\_  
Project fund financial management and audit requirements.  
\_\_\_\_\_  
Real property acquisition or easements.  
\_\_\_\_\_  
Bid letting procedures.  
\_\_\_\_\_  
Equal Opportunity and Civil Rights.  
\_\_\_\_\_  
Contract administration.  
\_\_\_\_\_  
Environmental regulations related to cultural resources, threatened and endangered species.
4. Does your organization have a financial management system in place that meets the requirements of 7 CFR 3016.20? \_\_\_\_\_
5. Does your organization have procurement standards in place that meet the requirements of 7 CFR 3016.36? \_\_\_\_\_

If you answered "no" to more than two of the items listed above, please provide the following information on the organization that will be providing administration assistance to you:

Name and Mailing Address of Organization: \_\_\_\_\_

Phone: \_\_\_\_\_ FAX: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Does your organization have capabilities of accepting electronic fundstransfer? \_\_\_\_\_

*An Equal Opportunity Provider and Employer.*

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## Appendix G – Form NRCS-ADS-78 – Assurances Relation to Real Property Acquisition

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U.S. Department of Agriculture  
Natural Resources Conservation Service

NRCS-ADS-78  
5/88

### ASSURANCES RELATING TO REAL PROPERTY ACQUISITION

---

A. **PURPOSE** — This form is to be used by sponsor(s) to provide the assurances to the Natural Resources Conservation Service of the U.S. Department of Agriculture which is required in connection with the installation of project measures which involve Federal financial assistance furnished by the Natural Resources Conservation Service.

B. **PROJECT MEASURES COVERED**—

Name of project \_\_\_\_\_

Identity of improvement or development \_\_\_\_\_

Location \_\_\_\_\_

C. **REAL PROPERTY ACQUISITION ASSURANCE**—

This assurance is applicable if real property interests were acquired for the installation of project measures, and/or if persons, businesses, or farm operations were displaced as a result of such installation; *and* this assurance was not previously provided for in the watershed, project measure, or other type of plan.

If this assurance was not previously provided, the undersigned sponsor(s) hereby assures they have complied, to the extent practicable under State law, with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. 4601-4655), as implemented in 7 C.F.R. Part 21. Any exceptions taken from the real property acquisition requirements under the authority of 42 U.S.C. 4655 because of State law have been or is hereby furnished to the Natural Resources Conservation Service along with the opinion of the Chief Legal Officer of the State containing a full discussion of the facts and law furnished.

D. **ASSURANCE OF ADEQUACY OF REAL PROPERTY RIGHTS**—

The undersigned sponsor(s) hereby assures that adequate real property rights and interests, water rights if applicable, permits and licenses required by Federal, State, and local law, ordinance or regulation, and related actions have been taken to obtain the legal right to install, operate, maintain, and inspect the above-described project measures, except for structures or improvements that are to be removed, relocated, modified, or salvaged before and/or during the installation process.

This assurance is given with the knowledge that sponsor(s) are responsible for any excess costs or other consequences in the event the real property rights are found to be inadequate during the installation process.

Furthermore, this assurance is supported by an attorney's opinion attached hereto that certifies an examination of the real property instruments and files was made and they were found to provide adequate title, right, permission and authority for the purpose(s) for which the property was acquired.

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This form was electronically produced by National Production Services Staff

# Sponsor's EWP Guide

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If any of the real property rights or interests were obtained by condemnation (eminent domain) proceedings, sponsor(s) further assure and agree to prosecute the proceedings to a final conclusion and pay such damages as awarded by the court.

---

\_\_\_\_\_  
(Name of Sponsor)  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

This action authorized  
at an official meeting \_\_\_\_\_  
day of \_\_\_\_\_, 19\_\_\_\_\_  
at \_\_\_\_\_  
State of \_\_\_\_\_  
Attest: \_\_\_\_\_  
(Name)  
\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Name of Sponsor)  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

This action authorized  
at an official meeting \_\_\_\_\_  
day of \_\_\_\_\_, 19\_\_\_\_\_  
at \_\_\_\_\_  
State of \_\_\_\_\_  
Attest: \_\_\_\_\_  
(Name)  
\_\_\_\_\_  
(Title)

# Sponsor's EWP Guide

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## Appendix H – Sample Attorney's Opinion Letter

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### <SPONSOR'S LETTERHEAD>

<Date>

Mr. Troy Daniell  
State Conservationist  
USDA – Natural Resources Conservation Service  
375 Jackson Street, Suite 600  
St. Paul, Minnesota 55101

Re: Assurances Relating to Real Property Acquisition

Dear Mr. Morgan:

As <City/County> Attorney, I advise you that I have reviewed the document titled “Assurances Relating to Real Property Acquisition” and that there is adequate landrights to carry out the work, which is to <describe work> from the <name of disaster>.

Feel free to contact the undersigned.

Very truly yours,

\_\_\_\_\_  
<Signature of Attorney>  
<Title Block>