

## **Attachment E. Land Acquisition Reporting Procedures**

Outdoor Heritage Fund Pass-Through Grant Appropriations

(July 2018, replaces all previous Attachment E versions)

### **Section 1 – Grant procedures for all land acquisitions.**

**All pre-closing documentation should be submitted to the DNR Grants Unit at least 10 business days prior to your closing date in order to facilitate a successful transfer of grant funds.**

The DNR Grants Unit review and approval of all elements of Attachment E including, but not limited to an appraisal, legal description, title work, and environmental assessment is required. The recipient assumes the risk that their costs will not be covered under this agreement if the recipient purchases the real property or interest in real property before receiving the required DNR approval.

A copy of the DNR appraisal guidelines, forms, and list of appraisal reviewers can be found at the following location: [DNR Appraisal Management](#)

### **Legal Description**

- a. The grant recipient must have a real estate professional review the full legal description for the property being acquired. When appropriate, the grant recipient shall have the full legal description reviewed by a surveyor. The grant recipient must have the property surveyed by a surveyor hired by the grant recipient, if it is needed to have a recordable legal description. The surveyor hired by the grant recipient must be [licensed in Minnesota](#).
- b. If a property is intended to be conveyed to the DNR, and a survey is required, please provide your surveyor the DNR survey guidelines to help ensure another survey won't be required prior to conveyance. Those guidelines can be provided to you by your grants specialist.
- c. Any acres not eligible to be acquired with grant funds (for example, RIM acres) should be excluded from the full legal description.

### **Valuation/Appraisal**

The effective date of the appraisal must be no more than one year prior to obtaining an executed purchase agreement. Closing on the property should happen within one year of executing the purchase agreement. Please contact your Grants Specialist if you do not anticipate this being possible.

For the specific purposes of this document, “appraised value” refers to the certified appraised value of the land to be purchased. A separate certified appraised value must be provided for all lands/interest in lands purchased with state grant funds. Separate certifications and legal descriptions are not required if the Outdoor Heritage Fund (OHF) notice of funding restriction is placed on the entire property regardless of whether OHF funds are paying for the entire property.

- a. No appraisal is required if the land's appraised value is \$20,000 or less. However, the grant recipient must provide documentation on how the value was determined.
- b. For properties valued over \$20,000, an appraisal must be completed and prepared by a [Certified General Level 4 appraiser licensed in Minnesota](#).

1. The appraisal must be prepared in conformity with the guidelines titled “[Uniform Standards of Professional Appraisal Practice](#)” and [Minnesota DNR “Supplemental Appraisal and Appraisal Review Guidelines \(1-1-2016 version\).”](#)
2. In order to ensure compliance with the applicable appraisal standards:
  - a. Your written assignment instructions to the appraiser must be included as an addendum of the appraisal report.
  - b. The grant recipient must provide the appraiser with a **full legal description** and an estimate of the acreage of the property being acquired with grant funds. Full legal description refers to the legal description that would be used in the deed transferring the property from the current owner to the grant recipient. The appraiser must include the full legal description in his/her appraisal.
    1. The appraiser must use the [DNR Certification Form](#) or incorporate all aspects of this form into a separate template.
    2. The DNR must be named as an intended user of the appraisal report.
    3. The intended use shall include ***negotiation and grant reimbursement***.
  - c. If the appraised value is greater than \$10 million, two appraisals are required and the DNR must be involved in writing the appraisal scope of work to be provided to the appraisers. Contact Cindy Nathan at: [cindy.nathan@state.mn.us](mailto:cindy.nathan@state.mn.us).
  - d. If the results of a survey, negotiation, or title work change information relevant to the appraisal, including, but not limited to the legal description, acreage, or ownership, this information must be given to the appraiser to consider. The appraiser must then provide written documentation stating if the new information has changed the estimated market value in the report. If there is a change, the appraiser must provide appropriate supporting evidence and a new DNR certification reflecting the new estimated market value.

## Appraisal Review

- a. Appraisal reviews must be completed prior to submitting a request for reimbursement and it is recommended they are completed prior to obtaining an executed purchase agreement.
- b. The appraisal review must be prepared in conformity with the “Uniform Standards of Professional Appraisal Practice” and the current Minnesota DNR “Supplemental Appraisal and Appraisal Review Guidelines (1-1-2016 version)”
- c. The grant recipient may conduct an administrative review for all appraised properties valued up to \$500,000. The grant recipient must use the [DNR Administrative Review Checklist](#). All elements of the checklist must be met. The administrative review checklist must be completed by an individual who was not involved in the negotiations of acquiring the property from the landowner.
- d. Technical reviews are required for properties with an appraised value of over \$500,000, up to \$1,000,000. In the event the landowner and grant recipient each choose to get an appraisal, a technical review will be required to determine which appraisal will be used.
  1. The grant recipient must use a [technical reviewer on the list provided by the DNR](#).
  2. The DNR must be named as an intended user of the appraisal review report.
  3. The intended use must be to assure ***conformance to standards, reliability and credibility of the appraisal for use in reimbursement of grant monies***.
  4. The reviewer must use the [DNR Reviewer Certification Form](#).
  5. The grant recipient must provide the appraisal reviewer with a full legal description and an estimate of the acreage of the property being acquired with grant funds. Full legal description refers to the legal description that would be used in the deed transferring the property from the current owner to the grant recipient. The appraisal reviewer must include the full legal description in his/her appraisal review.
  6. The appraisal must be recommended.

- e. For properties appraised at a value greater than \$1,000,000, the technical appraisal review will be conducted by the DNR.
  1. In order to have a technical review conducted by the DNR, the grantee must submit a Use of Funds letter to the DNR Grants Unit in order to pay for the DNR Appraisal Management team to do the review. The Use of Funds letter requirements are listed in your grant agreement. The grantee must have funding in their “DNR Land Acquisition Costs” line item in the approved accomplishment plan budget to pay for any DNR land acquisition services related to the project.
  2. The grant recipient must provide the [acquisition packet](#) information and all appraisal documentation to Cindy Nathan. Please contact Cindy Nathan to determine how much time it will take for the review to be conducted by the DNR.
  3. The DNR must be named as an intended user of the appraisal review report.
  4. The intended use must be to assure *conformance to standards reliability and credibility of the appraisal for use in reimbursement of grant money*.
  5. The appraisal must be recommended.
  6. The acquisition packet and appraisal report (2 copies) shall be submitted to: Cindy Nathan, Minnesota DNR, 1601 Minnesota Drive, Brainerd, MN 56401.
  7. The State Reviewed Appraisal Certificate Letter will be mailed to the grant recipient at the location indicated on the acquisition packet once it has been completed.
  8. The State Reviewed Appraisal Certificate Letter issued by the Appraisal Management team to the grantee must be submitted to the DNR Grants Unit prior to the transfer of grant funds for the specified acquisition.
  
- f. A landowner may choose to hire their own appraiser with the following guidelines:
  1. The appraisal must be done to the same standards that are put forth in Attachment E.
  2. The grant recipient and the landowners appraisal must be completed around the same time to assure similar market conditions are present.
  3. The DNR will hire an independent appraiser to perform a technical review on both appraisals.
  4. Once the technical review is complete, the reviewer will recommend one report, or on rare occasions reject both reports.
  5. The landowner’s appraisal will not be considered if the grant recipient has had a technical review conducted, and/or has offered the landowner an amount to purchase the property based on an existing appraisal.

## **Landowner Information**

1. The grant recipient must be working with a willing seller and the landowner must be made aware of the fact that the grant recipient intends to either retain ownership or convey the real property or an interest in the property to a governmental entity.
2. The grant recipient must disclose any conflict of interests to the landowner.
3. The grant recipient must obtain a completed copy of the most current Landowner’s Disclosure Form that contains all components of the form based on discussions with the landowner.
4. The completed landowner’s disclosure form must be provided to the appraiser and the appraiser reviewer before the appraisal and appraisal review are conducted. The grant recipient may have the appraiser include this form as an addendum to their appraisal or the grant recipient may submit it to the DNR Grants Unit separately.

## Site Assessment

1. The grant recipient shall conduct an appropriate [site assessment](#) of the real property to determine whether the real property is used or has ever been used for the manufacture, use, storage, or disposal of any hazardous waste or toxic substance, pollutant or contaminants. If contamination is suspected, a Phase 1 review is required. If appropriate based on the findings of the Phase 1, a Phase 2 review is required.
2. The grant recipient must inspect any buildings and other improvements.

## Marketable Title

1. The grant recipient must obtain marketable title for the property as shown either by a title opinion prepared by an attorney licensed to practice in Minnesota or by title insurance (not just a title commitment). Should a cure be required before transfer to the DNR, the grant recipient is responsible for the cure to title.

## County Board and Town Board Notification

1. At least 30 days before a fee title closing, a nongovernmental organization must notify in writing the county board and town board where the land is located the intent to purchase. The county and town board must also be furnished with description of the land to be acquired at the time of notification.

## Reasonable Costs/Accountability of Overall Program

1. Documentation of all costs is required for reimbursement.
2. Grant recipients are subject to periodic audits of purchases, appraisals, and appraisal review procedures. DNR's audit team may include financial, appraisal, and legal staff.
3. Audit findings may alter grant recipient's future level of authority to conduct work or receive additional grants.

## Conveyance to the DNR

1. If the property is to be conveyed to the DNR, please provide the DNR with the following information that was gathered under these procedures. These documents are to be provided to the DNR Lands and Minerals Project Manager assigned to the acquisition project.
  - a. a copy of the initial site assessment information;
  - b. the landowner disclosure form completed by the landowner from whom you purchased the property;
  - c. evidence that the County Board was notified of the acquisition and any comments/concerns stemming from the notification;
  - d. the title information i.e. attorney's title opinions, commitments for title insurance;
  - e. any survey work completed to DNR survey guidelines;
  - f. the deeds (copies of the existing landowner's deed and purchase/option agreement and exercise letter if the property has not been purchased yet) or copy of the deed showing transfer of ownership to the grant recipient.
2. If you want to arrange for a closing with the DNR that is in close proximity in time to your closing with the landowner from whom you are acquiring the property, please contact the acquisition program coordinator and the DNR Lands and Minerals Project Manager assigned to the acquisition project before obtaining a signed option from the landowner.

## Section 2 – Reporting Requirements, Eligible Costs, Conditions for Payment of Eligible Costs

### Reporting Requirements and Notice of Funding Restrictions

- a. The grant recipient must comply with the project requirements and reporting requirements specified in [Minnesota Statute 97A.056](#), Subdivisions 13, 15, 16, & 17.
- b. A legal description of the interest in real property covered by the funding agreement;
- c. A reference to the underlying funding agreement;
- d. A reference to 97A.056, Subdivision 15c; and
- e. **The following statement must be referenced in the Notice of Funding Restrictions:** *"This interest in real property shall be administered in accordance with the terms, conditions, and purposes of the grant agreement controlling the acquisition of the property. The interest in real property, or any portion of the interest in real property, shall not be sold, transferred, pledged, or otherwise disposed of or further encumbered without obtaining the prior written approval of the Lessard-Sams Outdoor Heritage Council or its successor. The ownership of the interest in real property shall transfer to the state if: (1) the holder of the interest in real property fails to comply with the terms and conditions of the grant agreement or accomplishment plan; or (2) restrictions are placed on the land that preclude its use for the intended purpose as specified in the appropriation."*

### Eligible Costs are the Following:

- a. The value the grant recipient paid for the property up to 110% of the appraised value,
- b. Appraisals and Appraisal Reviews for land to be acquired with OHF funds,
- c. Surveys,
- d. Title commitment,
- e. Loan costs for holding the property,
- f. Property taxes paid by the grant recipient from the date of its acquisition provided the property will be conveyed to a government entity during the grant period,
- g. Attorney fees for the specific acquisition (i.e. title opinion),
- h. Staff time spent on the specific acquisition,
- i. Abstracting, recording fees, and other closing fees,
- j. Penalty payments made for prepayment of a mortgage or loan,
- k. Title Insurance, and
- l. Phase 1 Site Assessments.
- m. Mineral Reports

### Eligible Costs upon Prior Approval are the Following:

- a. Phase 2 Site Assessments,
- b. Other due diligence expenses, carrying costs, and transactional costs not listed under 2. Eligible Costs, and

## Conditions for Payments of Eligible Costs

The Recipient may use funds available under this Agreement to cover any costs incurred in following the above land acquisition procedures and as otherwise set out in the Accomplishment Plan attached as Attachment A subject to the following conditions:

- a. The Recipient will not be entitled to use funds available under this Agreement for any land value costs in excess of 110% of the appraised value.
- b. Eligible costs incurred in the purchase of real property or an interest in real property must be documented by:
  - **Pre-Closing Items to DNR (Required at least 10 business days before the closing date)**
    1. A copy of the site assessment document,
    2. A copy of all appraisal(s) and appraisal review(s),
    3. State Review Appraisal Certificate Letter, if required,
    4. The full legal description of the real property or interest in real property purchased,
    5. Any required survey,
    6. Landowner's Disclosure Form (may be contained in the appraisal addenda),
    7. Evidence of title as required above or as otherwise agreed to by the Attorney General, and
    8. Evidence of the amount to be paid for the real property or interest in real property (signed purchase agreement or signed option agreement along with an option exercise letter).
    9. Evidence that county and town boards were notified in writing at least 30 days prior to acquisition.
  - **Post-Closing Items to DNR (Required within 10 days after the closing date)**
    1. Settlement Statement.
    2. Confirmation of bank payment.
  - **Post-Closing Items to DNR (Required within 60 days after the closing date)**
    1. A copy of the recorded deed or easement language,
    2. Evidence of successfully recording a notice of funding restrictions
    3. Title Insurance Policy (if used)
    4. Documentation of revenues (as applicable when land is transferred to the state)
  - **Post-Closing Items to LSOHC (Required within 60 days after the closing date)**
    1. Final Disposition document,
    2. Parties to an easement must specify in the easement document all the provisions of their agreement that are perpetual; an electronic copy of the terms of an easement acquired must be sent to LSOHC.
    3. Documentation of revenues (as applicable when land is transferred to the state)

