

Land Acquisition Guidelines For Nonprofit Organizations

For use with the following grant programs:
Knowles-Nelson Stewardship Program
Lake Protection Program
National Recreation Trails Program
Rivers Program



Bureau of Community Financial Assistance
Wisconsin Department of Natural Resources
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DNR CONTACTS

The Bureau of Community Financial Assistance administers most grant programs for the Department of Natural Resources, providing both central office and region support for grant applicants. Your primary contact will be the region DNR grant specialist. We recommend that you talk with a grant specialist before beginning your project.

If you do not already know the name of the person to call for grant assistance, you may find their names on the Bureau of Community Financial Assistance web page at: www.dnr.state.wi.us/org/caer/cfa/grants/index.html.

Or you may call the DNR Region office nearest you:

Northern Region (Rhinelander): 715-365-8900
(Spooner): 715-635-2101
Northeast Region (Green Bay): 920-492-5800
South Central Region (Fitchburg): 608-275-3266
Southeast Region (Milwaukee): 414-263-8500
West Central Region (Eau Claire): 715-839-3700

How Can We Improve These Guidelines?

This is the first edition of the new Land Acquisition Guidelines. We anticipate making revisions next year and would appreciate your suggestions on the format, content, and usefulness of the guidelines. Please feel free to provide comments to your DNR grant specialist.

We are particularly interested in receiving feedback on the following questions:

1. Is the format easy to follow? What could make it better?
2. Do the guidelines cover DNR land acquisition requirements satisfactorily? What additional information could be added?
3. What specific changes do you suggest to improve the process for grant applicants?
4. Any additional comments.

THANK YOU



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INTRODUCTION

This document provides information on uniform requirements for all DNR grant programs that fund land acquisition projects. These requirements are complex, particularly for beginners, but please keep in mind that they are designed to ensure fairness, and protect the interests of landowners, grant applicants and the taxpayers of Wisconsin. Failure to comply with these requirements could disqualify an applicant from receiving a grant.

Please note that this document does not provide specific information on individual grant programs. Refer to the grant guidelines for each program for that information.

As you move through these guidelines and the grant process, you will certainly have questions and need guidance. We encourage you to work with our grant specialists to explore options and find the best solutions for your situation. They can assist you with questions about these guidelines or with program specific requirements.

We wish you success as you develop your project and explore funding opportunities with us.

These guidelines can also be found out on the DNR Community Financial Assistance website: <http://www.dnr.state.wi.us/org/caer/cfa/grants/forms/forms.html>

The Wisconsin Department of Natural Resources provides equal opportunity in its employment, programs, services, and functions under an Affirmative Action Plan. If you have any questions, please write the Equal Opportunity Office, Department of Interior, Washington, D>C> 20240.

This publication is available in alternative format (large print, Braille, audio tape, etc.) upon request. Please call the Bureau of Community Financial Assistance at 608-266-7555 for more information.

Land Acquisition Tools Conservation Easements vs. Fee Title Ownership

In this document, the term “land acquisition” refers to acquisition of both easements and fee title ownership of property. Most programs that award grants for land acquisition will fund both fee simple and easement acquisitions. Check the grant program guidelines to be certain.

To define these tools, think of property ownership as a bundle of rights: the right to use the property for particular purposes; to lease, sell or give it away; to protect its natural features or develop it; and the right to exercise all or none of these rights.

Fee Title Acquisition

Fee title acquisition is the outright purchase of land including the transfer of title to the property and all the rights associated with ownership as defined above. Another way of stating this is that an absolute or fee-simple estate is one in which the owner is entitled to the entire property (i.e. the entire bundle of rights).

Conservation easement

A conservation easement is a way to convey some of the land rights associated with ownership of property to another party. It is a voluntary legal agreement between a landowner and a government agency, local unit of government, or a qualified nonprofit organization that conveys specific rights and permanently limits specified current and future uses. Generally, the purpose of a conservation easement is to protect water quality, habitat or other natural resources. As with other easements the landowner still retains ownership and many uses of the property.

NOTE: Section 700.40 of the Wisconsin Statutes (Uniform Conservation Easement Act) provides for the creation and conveyance of conservation easements.

WORKING WITH LANDOWNERS

Negotiations

Real estate negotiations are successful when both parties achieve their goals. Negotiators who are patient, objective and straight-forward are most likely to have success. Appendix A contains a list of negotiating tips collected from experienced negotiators. You may also want to review Section II in the book *Doing Deals – A Guide to Buying Land for Conservation*, or attend a class on this subject.

Confidentiality should be respected in all real estate transactions; however, if you are applying for a grant, DNR staff will need to know the details of the transaction. Therefore, we recommend that you notify the seller that you are applying for grant assistance from the state and that you will be sharing information about the transaction with DNR staff involved in evaluating the project. All parties should also know, that in many cases, at some point in the grant process the DNR is required by law to notify the public about the grant and ask for public comment.

If confidentiality is an important concern to the landowner or any other affected party, please advise your DNR grant specialist. They will work with you to ensure confidentiality as long as possible in the grant process.

If you are acquiring an easement with a DNR grant, you will need to explain the state's interests in the easement to the landowner. In addition, the interests of the State must be referenced in the easement document itself or in a separate acknowledgment signed by the landowner. (For additional information about easement requirements, see DNR Easement Guidelines available from your grant specialist.)

A Word about State and Federal Tax Implications for the Landowner

There are federal and state tax benefits for landowners who do “bargain sales” or donate their property for public conservation or recreation purposes. The tax laws are complex and sometimes change. Therefore, we recommend that you advise property owners to consult with a tax expert about the impact of the sale or donation of their property on their taxes. Negotiators should never provide legal or tax advice to a landowner.

Relocation

Relocation is a program mandated by state and federal law that protects landowners and tenants displaced by either government-sponsored projects or projects that receive government funding. The purpose of relocation is to ensure that persons are compensated fairly for certain losses incurred as a result of a publicly funded project.

The law requires that if an organization receives a grant from the DNR for property whose purchase will cause the involuntary displacement of a tenant from their home, farm or business, the tenant is eligible for financial assistance from the organization.

A landowner who sells a property to an organization is not considered a displaced person, nor is a tenant who can remain on a property subject to normal rental conditions. If a tenant makes a decision to move, but the move is not due to the project, the tenant is not considered displaced. On the other hand, a tenant who must move due to the project is considered displaced.

Under state and federal law, the responsibility for complying with required relocation procedures rests with the buyer.

Relocation is administered by the Wisconsin Department of Commerce (COMM). If a tenant is being displaced, you should contact them for assistance:

Relocation Unit, Division of Community Development
Department of Commerce
Box 7970, 201 West Washington
Madison, WI 53707-7970
Telephone: 608-264-7822

Website: www.commerce.state.wi.us. (click on Index and go to Relocation Plan Review)

COMM may ask you to prepare a Relocation Plan in accordance with their guidelines or issue a written determination that relocation payments are unnecessary. They will provide relocation brochures for you to give the landowner; help you determine if relocation applies to your project; assist you or your consultant in the development of a relocation plan; determine what services and payments are required; and provide sample formats for plans and waivers (located on the Commerce website). They can also assist in the resolution of disagreements.

Relocation costs vary greatly depending on the situation. State and federal law sets the dollar amount of relocation assistance that is required. Most grant programs include relocation as an eligible acquisition cost and will reimburse at the same percentage as other transaction costs.

INSPECTING THE PROPERTY

Site Inspection

A systematic, on-the-ground site inspection is an essential first step in acquiring property. The DNR expects all grant applicants to do a thorough property inspection before applying for a grant. As part of this inspection, you should look for the following:

- Type and condition of natural resources¹
- Problems and threats to those resources
- Physical characteristics
- Existing land uses
- Land uses on adjacent properties
- Property boundaries (are they accurately marked?)
- Boundary encroachments
- Existing improvements on the property and their condition
- Safety hazards (manmade and natural)
- Evidence of contamination
- Observable easements and other encumbrances (power lines, gas lines, roads, etc.)
- Existing public access and public use problems
- Access to the property²

It is also likely that one or more staff persons from the DNR will need to inspect the property as part of the grant evaluation process. This will be a good opportunity for you to discuss with DNR staff resource values, management issues, funding alternatives and potential problems, but please keep in mind that the primary responsibility for a complete site inspection and due diligence rests with you, the buyer.

¹ If wetlands, shorelands or floodplains are present and you plan on building a trail or other structure on the property, please see the *Wetlands, Shorelands and Floodplains* on page 22 .

² If the property is landlocked, you must ensure that there is adequate legal access to the property for yourself, the DNR and often the public.

Assessment of a Property's Environmental Condition

An environmental inspection is required for all property acquired by a nonprofit organization with a DNR grant (including property that is donated as sponsor match, when allowed by the grant program). The purpose of this inspection is to determine whether there is any environmental contamination or potential for contamination on the property. This is a critical step that must be undertaken by an organization early in the acquisition process, and before the appraisal is ordered. The long-term financial ramifications of purchasing property without knowledge of existing environmental contamination is significant and could conceivably destroy the financial viability of an organization.



Did you know that.....

The DNR is part of a multi-agency, statewide effort to encourage the clean up of brownfields through design and support, providing financial incentives, liability protections, and other tools for local governments and others. Additionally, the DNR can provide educational information that supports positive and realistic perceptions about the value and potential for redevelopment of contaminated properties. The DNR has Remediation & Redevelopment (R&R) staff in every region office that can discuss these topics as they relate to your project. Contact your DNR grant specialist to connect with an R&R specialist.

Be aware that contaminated properties may require more time and effort to purchase than other properties, and in some grant programs may not be eligible for funding. In all grant programs, resolving contamination issues is a prerequisite to receiving a grant.

The environmental inspection may be done by a representative of your organization using the *Environmental Hazards Assessment Report Form* (DNR Form #1800-1). This form may be found in the grant program guidelines or is available from your DNR grant specialist. Grant payments cannot be made until the DNR has received and approved this form or an acceptable alternative.

If your initial inspection indicates there may be contamination on the property, you will need to confirm whether or not contamination is present by ordering a Phase 1 Environmental Assessment (EA) from a specialist in the field. As a general rule, a Phase 1 EA should always be completed for any of the "lands of special concern" listed below.

You will need the landowner's permission to order an EA, plus you must determine who will pay for the assessment, which can be expensive (\$1,000-\$10,000 or more). If you receive a grant, the DNR may pay a portion of your costs of a Phase 1 EA as part of the grant. The DNR, however, cannot help pay for the costs of clean-up under any grant program that funds land acquisition.

LANDS OF SPECIAL CONCERN

While no property should be assumed to be free of contamination, certain types of property are more likely to be contaminated than others. A Phase I Environmental Assessment should always be ordered for the following:

- ◆ Any site previously developed and now vacant
- ◆ Any current or previous industrial or commercial site
- ◆ Any site used for storage or warehousing of commercial or industrial materials
- ◆ Any site where the following are visible: dumps, debris piles, discarded storage drums, monitoring wells, areas previously burned
- ◆ Orchards
- ◆ Railroads and railroad spurs
- ◆ Suspected former landfills
- ◆ Areas without vegetation
- ◆ Areas with a history or likelihood of underground storage tanks
- ◆ Any site adjacent to any of the above

If an environmental condition is discovered you should either reconsider your decision to purchase the property or obtain a Phase 2 EA, which is a more extensive examination of the property than the Phase 1. The DNR may agree to cover part of your costs for the Phase 2, but you must receive DNR approval prior to beginning the work. If the presence of contaminants is confirmed, then the DNR region remediation and redevelopment (R&R) staff will determine whether a full site investigation is needed. At this point, further requirements will depend on the results of the DNR review, which will take into account the intended use of the property. Your DNR grant specialist and the R&R specialist will work with you to determine what your options are.

For property that is or was contaminated, we recommend that you do not close until the property has been cleaned up or the DNR has approved a clean-up plan. You will not receive a grant payment until all contamination issues have been resolved.

Additional information on contaminated property is available from the DNR Bureau of Remediation and Redevelopment. Their Website is www.dnr.state.wi.us/org/aw/rr. They have a number of fact sheets on this topic including:

- ◆ *Environmental Contamination – The Basics* – DNR PUB-RR-674
- ◆ *Step One of Conducting a Thorough Environmental Investigation: Phase 1 Environmental Assessment and a Phase II Scope of Work* - DNR PUB SW-510-95, Fact Sheet 3
- ◆ *Voluntary Party Remediation and Exemption from Liability*, Fact Sheet 2
- ◆ *Guidance for Dealing with Properties Affected by Off-Site Contamination*, Fact Sheet 10

IDENTIFYING THE PROPERTY

The Legal Description

There are three types of legal descriptions or ways to describe land: metes and bounds, lots and blocks (described on a plat map) and the rectangular public land survey system.

In any real estate transaction, an accurate legal description is critical because it describes exactly what land area is included in the transaction. An incorrect legal description on a deed or conservation easement could provide you with rights to more or less land than you expected or to land located in a different place than you intended. And you may pay significantly more or less than justified for the property.

For DNR grants, we require that you obtain an accurate legal description. You will need it and the correct acreage for the grant application, appraisal, offer to purchase or option to purchase and the deed. DNR staff will compare the legal descriptions in the appraisal, title commitment and warranty deed or easement, and also check against the plat book. You or your attorney should also confirm the legal description.

If a landowner's entire property is being acquired, the same legal description that was used on the previous deed is acceptable. Legal descriptions become more difficult when only part of an ownership is being acquired.

An "ownership of record" report is a recommended document to obtain from a Title Insurance Company early in the acquisition process. It is a low cost service that provides you with a copy of the last deed for the property, which will identify the current owner and legal description. You may also ask the owner for a copy of the deed or visit the Register of Deeds Office to look up this information yourself.

Surveys

A survey provides information about property boundaries and acreage. It also assists in identifying encroachments and the location of any easements that encumber a property. When you order a survey, you will receive a narrative legal description of the property and a plat map. The corners of the property will be marked, which will help you locate boundaries in the future.



Public Land Survey System

The Public Land Survey System is used to describe the location of land in legal documents. It employs a grid system based on township, range and section numbers.

To learn more about the Public Land Survey System, go to the following Web sites:

www.dnr.state.wi.us/org/land/forestry/Private/PLSSTut/legaldesc.htm or
www.geography.wisc.edu/sco/geodetic/plss.html

When Do You Need a Survey?

Surveys are expensive, and frequently not necessary; however, if there is any question about property boundaries, definitely order one. If you are uncertain about the need for a survey, consult with your attorney and DNR grant specialist. Generally, the DNR requires a survey in the following situations.

- ✓ If a single ownership is being divided (i.e., you are purchasing only part of a property) and the dividing line is not a section line, roadway or waterway like a stream, then a survey is required to describe the location of the new property boundaries.

NOTE: County regulations often require a survey for sales of less than 40 acres that are created from a larger ownership. This is probably good advice to follow even if not required in your county. A "Certified Survey Map" may also be required for such parcels. (This may trigger rezoning to comply with local subdivision ordinances, which can be a time-consuming process.) Cities also often have special requirements for dividing property that need to be followed.

- ✓ If the grant will cover only part of the property you are acquiring, and the grant portion does not follow section lines, roadways or waterways (for example, a situation where the grant excludes buildings, future building sites, areas of grant ineligible uses, etc.).

NOTE: When this is the case, consult with your DNR grant specialist to determine whether a survey is needed.

- ✓ If you are purchasing a conservation easement that covers only part of a property, and it is not possible to establish an accurate legal description for the area covered by the easement without a survey. In situations where the easement follows section lines, roadways, or waterways, a survey is usually not necessary.
- ✓ If there is a dispute over a boundary or encroachment.
- ✓ If you need to ensure that there is adequate access to the property.
- ✓ If you need to know the exact location of a conservation easement that already exists on a property you are purchasing.

These are all situations in which we ordinarily require a survey. In some cases, there may be a simple way to modify the legal description of the property and a survey will not be needed. In these situations, you should consult with your attorney and DNR grant specialist.

APPRAISALS

Most grants awarded by the DNR for property acquisition are based on appraised value.³ An appraisal establishes an opinion of value based upon a factual analysis, and provides an objective, independent estimate of the fair market value of a property.

The entire appraisal process is detailed and can be lengthy. It includes choosing a qualified appraiser, contracting for the appraisal, and collecting information the appraiser needs to do the job. Then, after the appraisal is complete, it will be reviewed by a DNR real estate review appraiser, who frequently needs additional information from your appraiser before the appraisal can be approved for grant purposes. This review will be most helpful to grant applicants if it can be completed before price negotiations begin.

Appraisals serve many functions:

1. According to state statutes, an appraisal is required before a government agency can negotiate price or make an offer on a property.
2. It is a strong negotiating tool in arriving at a reasonable purchase price.
3. It provides a good measure of confidence to the acquiring agency or organization that a fair price is being paid for a property.
4. It helps ensure the wise use of public and donor funds. It protects buyers from paying too much, and landowners from receiving too little.
5. It provides a great deal of information about the property being acquired.
6. It is used to establish grant amounts by the DNR.
7. It may establish a maximum price that a 501c3 organization should pay for a property because nonprofits are prohibited by the IRS from enriching a private party, which could occur if more than fair market value is paid.
8. It is used to determine the value of a property donation for tax purposes when a landowner does a bargain sale or makes an outright donation of conservation lands. (A landowner must contract for his own appraisal to determine value for tax purposes. When a nonprofit signs IRS Form 8283 indicating that a bargain sale or donation has occurred, it is not attesting to value, only to the fact that a donation has occurred.)

³ Please refer to the specific program guidelines for your grant to confirm the grant calculation method that will be used for your project.

Timing of the Appraisal

Timing is a critical factor when ordering an appraisal. On the one hand, an organization may not want to incur the expense of an appraisal unless it knows it is likely to receive a grant. On the other hand, if an appraisal is completed before executing an Offer to Purchase, you will know the market value of the property before negotiating a price, which could save you money. You will also know how much grant funding you may be eligible to receive, which could affect the amount you can offer for a property.

It can take several months for an appraisal to be completed and reviewed. For these reasons, we recommend that you order the appraisal as early in the acquisition process as feasible.

Some grant programs require that an appraisal be submitted with the grant application; others allow you to provide it later. In addition, some of the most competitive programs, give higher priority to projects that have a completed appraisal because it is one measure of how “ready to go” a project is. For information on specific grant programs, check with your DNR grant specialist or refer to the grant guidelines.

Effective Date of the Appraisal

While there may be some flexibility as to when a grant applicant orders an appraisal, the date of the actual valuation must be within one year prior to the date of purchase. If the appraisal is more than a year old, contact the appraiser for an update. **The date of valuation cannot be after the date of purchase.**

Number of Appraisals Required

In most cases, one appraisal is required for property valued below \$200,000, and two are needed for property \$200,000 and above. The Stewardship grant program requires a second appraisal for property \$350,000 and above (updated 4/2009). For some grant programs, the DNR must order the second appraisal. Check with your DNR grant specialist if you are uncertain about who orders the second appraisal. In rare cases, it may also be necessary to order a third appraisal.



Appraisals for Conservation Easements

An appraiser needs the final draft of your easement **BEFORE** beginning an appraisal. This means that the details of the easement should be worked out between you and the landowner, and approved by the DNR, before the appraisal is begun.

In an easement appraisal, the value of the easement is based on the rights being conveyed by the landowner to the easement holder. If you make changes in the easement after an appraisal is complete, the value of the easement could change. You would then need to request an amendment to the appraisal, which may cost more, slow down the grant process and add confusion to an already complex process.

Steps to Ensure an Acceptable Appraisal

All appraisals must comply with established DNR standards. These standards are explained in detail in a technical bulletin called *DNR Real Estate Appraisal Guidelines*, which is available from your DNR grant specialist.

DNR staff will only accept appraisals that conform to these standards, and we cannot share the cost of a sub-standard appraisal. For these reasons, we recommend that you follow the procedures listed below. Failure to do so may result in an appraisal that cannot be accepted, forcing you to contract for another appraisal that meets the requirements.



1. Contact your DNR grant specialist to discuss the appraisal assignment BEFORE commissioning an appraisal. Depending on your situation, the grant specialist may ask you to contact the DNR real estate review appraiser before hiring a qualified appraiser.
2. Choose the type of appraisal that is required for your project before obtaining quotes from appraisers. Use the guidelines below to determine what type of appraisal to order based on dollar value of your project. (The *DNR Real Estate Appraisal Guidelines* contain information about each type.) If you have questions regarding this, please discuss with your DNR grant specialist.
 - a. Property valued above \$50,000: Full Narrative Appraisal Report
 - b. Property between \$15,000 and \$50,000: Abbreviated Narrative Appraisal
 - c. Property below \$15,000: Opinion of Value
3. Obtain quotes from several qualified appraisers, as the cost can vary significantly. (See sample *Request for Quotation* form in Appendix B.)
4. Choose a qualified appraiser. All appraisals must be done by a State Licensed or Certified Appraiser as described in Chapter 458 of the Wisconsin Statutes. Choose an appraiser who:
 - ✓ Is familiar with the DNR guidelines
 - ✓ Has previously completed acceptable work in public land acquisition
 - ✓ Is familiar with the local real estate market
 - ✓ Has experience doing appraisals for conservation easements (if the appraisal is for a conservation easement)

Your DNR grants specialist can provide you with a list of appraisers, but know that being on this list does not constitute a recommendation. Any appraiser can ask to be added to the list. You may want to check with other project sponsors for the names of appraisers who have done good work for them.

5. Indicate to the appraiser that the appraisal must meet DNR standards before final payment can be made to the appraiser. (See sample *Appraisal Contract* in Appendix C.) It is important that you receive assurance from the appraiser that she/he is willing to fully cooperate with the DNR review appraiser, and answer any questions they ask within 10 days of the request.
6. Provide your appraiser with a copy of the most current DNR *Real Estate Appraisal Guidelines* and insist that the appraiser contact the DNR review appraiser before beginning the assignment. Our review appraisers would rather spend a few minutes early in the appraisal process talking with your appraiser about the appraisal assignment and the DNR guidelines, rather than spending many hours reviewing a sub-standard appraisal, which will delay the grant process.
7. Provide good instructions. When contracting with an appraiser, it is important to provide good instructions regarding the assignment. Give the appraiser all the information needed to do an accurate appraisal of the property, including the following:
 - a. Name and telephone number of landowner
 - b. Location of the property, including county, township, and road
 - c. Brief paragraph describing the property and the rights to be appraised
 - d. Most recent deed, which confirms name of current landowner and provides legal description
 - e. Correct legal description for the property being acquired
 - f. Maps: aerial photo, plat, survey or Certified Survey Map, if available
 - g. Correct or estimated acreage and land cover types
 - h. Whether the appraisal is for a fee simple acquisition or conservation easement
 - i. Current and previous year's tax bill
 - j. List of and brief description of any improvements that should be included in the appraisal (See below under *Houses or Buildings on the Property*)
 - k. Existing liens or encumbrances on the property (may be found on the deed and/or title commitment), including enrollment in any programs such as Conservation Reserve Program or Managed Forest Law
 - l. Any rights being retained by the seller, such as life estate, hunting rights, etc.
 - m. Remediation plans, costs, and any deed restrictions related to identified site contamination
 - n. If the appraisal is for a conservation easement, a copy of the final draft of the easement approved by the DNR, and a summary of major conditions (see textbox on easement appraisals on page 12.)

Special Appraisal Situations

1. Houses or Buildings on the Property

Because buildings and other structures can have a significant impact on appraised value, it is important to learn whether they can be included in the grant project before ordering an appraisal. Your DNR grant specialist can answer your questions on this matter.

NOTE: Most DNR land acquisition grant programs do not cover the purchase of houses or outbuildings even if they are within project boundaries unless there is a compelling reason to do so. In cases where buildings are purchased by a grant applicant, the value of the buildings and land immediately surrounding those buildings may be deducted when determining the grant amount. Please note that when this occurs, the number of acres adjacent to the buildings that are deducted from the grant may need to be sufficient to meet local zoning requirements.

2. Contaminated Properties

Appraisals prepared for contaminated sites must reflect the contamination and the cost to remediate the site. Make certain all cost estimates for remediation are complete before ordering the appraisal. An appraisal prepared before the extent of contamination is determined, and before a remediation plan and reliable cost estimates are completed, will not be approved for grant consideration.

3. Grant Covers Only Part of the Property Being Acquired by the Grant Applicant

Sometimes the grant applicant acquires a property, and the DNR awards a grant for only part of it. For instance, if the grant applicant is acquiring 150 acres for outdoor recreation purposes, but plans to sell 30 acres of cropland to an adjoining farmer, the grant would cover only the 120 acres that will be used for public outdoor recreation. In such cases, the DNR grant specialist will work with you and the DNR review appraiser to define the appraisal assignment. The appraiser may be asked to either (1) appraise only the part being covered by the grant or (2) appraise the entire property, but also determine the proportionate value of the 30 acres and the 120 acres.

4. Retained Rights

Occasionally in fee simple acquisitions, a landowner will retain some rights in a property for a period of time. Those rights can be limited as in a short-term "agricultural lease" or long-term as in a "life estate," where the duration is for the lifetime of the person holding it. These rights must be reflected in the appraised value.

OFFERS & OPTIONS

It is best to follow-up verbal negotiations with a written offer (or counter offer) as soon as possible. Ultimately any agreement between buyer and seller should be defined by a written contract. The *Offer to Purchase* and *Option to Purchase* are examples of contracts commonly used in the real estate process.

Most DNR grant programs require grant applicants to submit a copy of the Offer to Purchase or Option to Purchase as part of their grant application so the DNR is fully aware of all conditions of the sale and any rights being retained by the landowner.

The contract should contain details about the transaction, such as purchase price, rights and obligations of the parties, legal description, condition of the property at the time the contract is entered into, financing, inspection and rezoning contingencies, transfer stipulations, closing date and any other information required by either seller or buyer.

If the purchase is dependent upon receiving a grant from the DNR, then it is advisable to include a contingency stipulating that provision. The clause can be very simple:

"Name of Grant Applicant is applying for a grant under the *Name of Grant Program*. This purchase is contingent upon receipt of a grant of at least \$_____ from the Wisconsin Department of Natural Resources."



A Few Words about Legal Counsel

Purchasing real estate is a complex legal process governed by many laws and regulations. For this reason, the DNR expects you to have a qualified attorney prepare or review all legal documents relating to your land transaction, including offers to purchase, options, title reports, deeds and easements.

TITLE INSURANCE

Grants for land acquisition are a significant investment of state dollars, and the DNR requires that grant applicants protect that investment by obtaining Title Insurance for both land and conservation easement acquisitions. For this reason, we recommend that you order a title commitment early in the land acquisition process.

An "Abstract of Title" accompanied by an "Attorney's Opinion of Title" provides a history of the public record for a property in a sequential volume. Prior to the 1980's, abstracts were the customary method of verifying the status of a property's title. Title insurance companies can also produce a *Letter Report*, which provides information about current ownership, including the name of the current owner, a legal description, liens against the current owner, taxes for the current and past year, and other current information pertaining to probate, bankruptcy, etc. You may find these documents useful, however, please note that neither of these can protect against defects that cannot be discovered from public records, such as an unrecorded land contract. **Because these documents do not provide any insurance, they are not acceptable for grant purposes.**

Title Commitment Report

The Title Commitment Report, also called the Preliminary Title Report, is issued **prior to** the closing on a property. It is a summary of all the information that appears in the public record about a property, and for that reason should be carefully reviewed by the grant applicant and their attorney prior to transfer of ownership.

The Title Commitment Report will:

- ✓ Provide documentation that the party you are negotiating with is the owner of the property and has the legal right to sell it to you.
- ✓ Determine who else holds rights in the property (utility companies, etc.).
- ✓ Identify lien holders, mortgages, debts, court actions, back taxes, utility and road easements or other types of claims on the property (i.e. any outstanding judgments).
- ✓ Identify any encumbrance on the property that may prevent it from being used as intended. (Any property subject to restrictions or covenants that limit the ability of the grant applicant to manage the property for the purposes of the grant will not be eligible for a grant.)

While the Title Commitment Report will reveal information of public record about title to the property, it does not reveal unrecorded defects of title. The title insurance company cannot guarantee "perfect title" for these unrecorded defects. Thus it is good practice to talk with the seller about any leases or verbal use agreements that may exist with neighbors, family, tenants or otherwise (i.e. cropping or building rental agreements, construction work liens, etc.)

Title Exceptions

Some defects in title are excluded from the policy and are listed as exceptions. There are “standard” exceptions that apply to most properties and exceptions specific to a particular property.

The Department evaluates each exception to the title to determine whether it limits the ability of the grant applicant to meet the goals of the grant program. **For this reason, you must provide “back-up” documentation for exceptions.**

Exceptions are evaluated on a case-by-case basis, however, exceptions that are generally not acceptable and must be removed include the following:

- ◆ Mortgages
- ◆ Judgment liens
- ◆ Mechanics liens
- ◆ Tax liens
- ◆ Covenants and restrictions that will adversely affect your ability to protect the property or provide public uses, including subdivision restrictions that limit use to residential purposes only
- ◆ Pending lawsuits
- ◆ Ownership disputes

Exceptions that are generally acceptable include:

- ◆ Utility easements, if there is not significant impact to the land that conflicts with the intended use of the property.
- ◆ Subdivision covenants and restrictions, unless they restrict the property to residential uses only, which excludes conservation or public recreation uses
- ◆ Access easement (unless they will interfere with public use).
- ◆ Current year's unpaid taxes.
- ◆ Exceptions relating to timber, water and mineral rights are sometimes acceptable. However, you must ensure that they do not interfere with the intended management and use of the property. To determine this, ask the title company to investigate what rights (timber, water or otherwise) may be held by another party.

Gap Insurance

The title commitment report is valid only up to the date it is prepared. Gap endorsement coverage or “owners extended coverage” includes the period of time between preparation of the title commitment and recording of the deed, thus informing the buyer if any new defects or encumbrances were recorded against the property during the period of “the gap.” **The DNR requires gap insurance for all land acquisition grants.**

Title Insurance Policy

A Title Insurance Policy is issued **after** ownership has been transferred and the deed recorded. It insures the buyer of the property against any losses caused by defective or unmarketable title. Unlike traditional insurance that insures against something that may happen in the future, title insurance insures the buyer against things that happened in the past that the buyer may not be aware of, but that could potentially affect transfer of title to the property. The amount of the policy is generally based on the purchase price.

Even when a preliminary Title Commitment Report is submitted to the Department for approval prior to transfer of the property, the final Title Insurance Policy must also be provided after the closing.

CLOSING THE DEAL

Transferring ownership, commonly referred to as the 'closing', is the last step in the acquisition process. Typically, most of the details have already been resolved, however, we recommend that you complete the following steps prior to the closing to ensure that there are no snafus that will jeopardize your grant:

1. Have your attorney review all documentation related to the acquisition.
2. Review the option and/or offer to purchase to make sure both parties have met all of their obligations.
3. Purchase gap insurance, if not already included by the title insurance company.
4. Review the legal description once again and compare the legal description and tax parcel ID number on option and/or offer, title insurance commitment, appraisal, seller's deed and new deed for consistency/accuracy.
5. Make a final inspection of the property shortly before the closing.
6. Work out any unresolved grant issues with the DNR.

Most closings are coordinated by either a title insurance company or attorney. At the closing you pay for the property and ownership is transferred from the previous owner to you via a deed. The title insurance company or attorney coordinating the closing should prepare a closing or settlement statement, which outlines the financial details of the transaction. After the closing, the deed or conservation easement is recorded at the county Office of the Register of Deeds. Often, the Department's interests in the property are also recorded at this time.

Warranty Deed Required

A deed is the written instrument by which an owner of real estate intentionally conveys the right, title or interest in the parcel to someone else. Deeds are typically drafted by a title insurance company or attorney.

There are a number of different kinds of deeds. A quit claim deed or release deed conveys title to real property without making any warranties about the validity of the title or the right of the grantor to transfer title. A warranty deed, on the other hand, fully warrants that the seller holds clear title to a property. In addition, the covenants of a general warranty deed are not limited to the time the seller owned the property, but extend to the property's origins. If a warranty deed is not possible in your situation, please contact your DNR grant specialist to discuss your circumstances.

NOTE: some grant programs require insertion of a clause on the Warranty Deed that recognizes the interests of the state through the grant program. Check the specific grant program guidelines to determine what is required.

OTHER GRANT REQUIREMENTS

Historic Property Assessments

All state agencies in Wisconsin must determine whether, by their own actions or through the issuance of a grant, they might “cause or permit an adverse effect on a historic property.” Historic properties include but are not limited to archeological sites, historic structures, and burial sites.

For some types of grants, your DNR grant specialist must check historic properties maps to determine if the Wisconsin Historical Society (WHS) has a record of a historic property on the parcel being acquired. If a record is found, the grant specialist will notify the DNR cultural resource specialist. If the cultural resource specialist confirms the presence of a known historic property, the proposed project will be sent to the WHS for further review. The WHS generally expresses no concern over state funded acquisition grants, per se, but they must be re-notified prior to any post-acquisition activities that may impact known historic properties. For example, if you plan to construct a trail through an archaeological site or contour a bank for erosion control, the WHS must review the proposed activity. They may require that you have a professional archaeologist evaluate the site’s significance.

Grants involving federal funds, such as the Land and Water Conservation Fund, require compliance with more stringent historic preservation compliance procedures. In these cases, the DNR grant specialist sends proposed projects to the DNR cultural resource specialist. If the grant is for acquisition only, the cultural resource specialist then forwards it to the WHS for review, regardless of whether or not there are any known historic properties on the parcel. Following acquisition, further WHS review is required prior to any ground disturbing activity. An archaeological survey may be required even if no archaeological remains have been previously identified. The grant recipient will be responsible for obtaining the services of a professional archaeologist. Depending on the grant program, the cost of archaeological investigations may be grant reimbursable.



Finding Artifacts After You Own the Property

After you purchase your property with a DNR grant, you remain responsible for preserving the cultural and historical integrity of the site. If any artifacts are unearthed during later restoration or construction activities, you must contact the Wisconsin Historical Society, Office of Preservation Planning, 816 State Street, Madison, WI 53706.

Certain types of grants are exempt from review for either state or federal cultural resource compliance. These include:

- Snowmobile or All-Terrain Vehicle trail acquisition
- NonPoint Source Pollution Abatement grants
- Targeted Runoff Management grants
- Stream Bank Protection grants
- Urban Green Space grants
- Urban Rivers acquisitions
- Urban Stormwater Management grants
- Natural Areas grants
- Lakes Program grant activities

Endangered Resources

Endangered resource “screenings” are required for all projects that receive DNR funding. During the screening, which is done during the region evaluation of the project, your DNR grant specialist will check natural heritage records to determine if there are any catalogued species on the property. If the purpose of the grant is to conserve natural resources, finding a catalogued species may increase the project's value and give it greater priority in the project selection process.

If you are planning construction on the site and a catalogued resource falls within the construction zone, a field visit will likely be required to determine if an endangered species or rare community still exists at the site, and whether your construction activity will imperil that resource. In these situations, the grant applicant will need to work closely with the DNR grant specialist and other staff to make needed adjustments to the construction that is planned.

Wetlands, Shorelands and Floodplains

Virtually all construction and ground disturbance activities are regulated within wetland, shoreland and floodplain areas of the state. If you are considering a project that will impact these areas, such as trail construction through a wetland, contact your local zoning office and the DNR water management specialist for your area. For a list of water management specialists, see www.dnr.state.wi.us/org/water/fhp/waterway/watermanagementspecialists.shtml.

Early consultation with your water management specialist can save you time and money. The permit process requires an accurate delineation of wetland, shoreland, and floodplain boundaries, a search for alternatives that avoid impacting these areas, and measures to minimize any unavoidable impacts. It is advisable to hire a professional hydrologist or water resources consultant to carry out these tasks. Information on wetland permits is available at www.dnr.state.wi.us/org/water/fhp/waterway/wetlands.shtml. For information on shoreland and floodplain permits, see www.dnr.state.wi.us/org/water/wm/dsfm/index.htm.

Managed Forest Law, Conservation Reserve Program and Wetland Reserve Program

Many properties around the state are encumbered with Management Forest Law contracts, Conservation Reserve Program agreements or Wetland Reserve Program conservation easements. In general, these encumbrances will not limit your ability to receive a grant under most grant programs. However, it will be necessary for your grant specialist to review documentation for any of these encumbrances to ensure that the requirements of these programs do not conflict with the intended purpose of the grant. In addition, the appraisal must consider these encumbrances when determining value.

Drainage Districts

Drainage districts are special purpose districts formed for the purpose of draining land, primarily for agricultural purposes (ch. 88, Wis. Stats. or ch. ATCP 48, Wis. Adm. Code).

Drainage districts may impose requirements that could impact the land management plan for your property. Wisconsin law also gives county drainage boards the ability to levy assessments against landowners, based on the benefits that each landowner receives from drainage district facilities.

To learn if the property you plan to purchase is in a drainage district, check your title commitment report or contact the State Drainage Engineer at DATCP (phone: 608-224-4627). Provide the Drainage Engineer with the Town, Range, and Section information for the property. The Drainage Engineer will check DATCP records and let you know if the property is in a current drainage district. If the property IS located in a drainage district, the following steps should be taken:

STEP 1: Determine if future management of the property will require (a) increased water retention or (b) increased water removal from the property. If the answer is “no”, you are done. If the answer to either question is “yes”, go to STEP 3.

STEP 2: Obtain the name and phone number of the county drainage board chair (or president) from the State Drainage Engineer. Call the drainage board chair, determine the date for the next drainage board meeting, and ask that the changes in land management you propose for the property be included as an agenda item at that meeting. This will be a decision item for the drainage board since your future management of the property will either increase or decrease the flow of water to the drainage district facilities. Ask for a copy of the agenda.

STEP 3: At the meeting, explain how the land management changes you propose will alter the flow of water from the property to district ditches and drains. A change in the amount of water contributed to the drainage system may increase or decrease the assessment you will pay once you are the new owner of the property.

Questions related to drainage districts should be referred to DATCP at the following address:

Drainage Engineer
Wisconsin Department of Agriculture, Trade and Consumer Protection
2811 Agriculture Dr
P.O. Box 8911
Madison, WI 53708-8911
262-224-4627

If your property is within a drainage district, your grant specialist will request information on how you have resolved drainage issues. We may also require a copy of written notification from the Drainage District.

APPENDIX A Effective Negotiations

Successful negotiations for the acquisition of real estate result when both parties achieve their objectives. Here are a few guidelines provided by experienced negotiators:

- ◆ **Dress for the occasion.** What you wear to meet with a farmer should look very different than what you wear to meet with a banker or attorney.
- ◆ **Learn what you can about the landowner before your first visit.** Check at the courthouse (or online) to see if you are dealing with a family, husband and wife, or corporation, and how long the landowner has owned the property. Other sources of information include the web, tax assessor's office, talking to others. You may also want to drive by the landowner's house, which may tell you something about them as well.
- ◆ **Be patient.** Negotiations take time. If time is important to you, tell the owner why and ask what can be done to make the deal go.
- ◆ **Be honest, positive and open.** Strive to build trust and respect. Remember to maintain confidentiality in financial and other sensitive matters. Never issue ultimatums. Owners teetering on the edge of a decision are unlikely to be swayed by such a tactic.
- ◆ **If you do not have an answer, don't guess.** Simply tell the owner you will check and get back to them. This is common practice, not a sign of a lack of knowledge.
- ◆ **Price is typically one of the most important issues in negotiations. Know the local real estate market and understand how the property fits into that market.** It is best to secure an appraisal before negotiating a price. This allows an objective, independent third party professional to set the price parameters of the purchase. If price is negotiated before an appraisal is secured, there is little assurance that a fair price is achieved and the seller, especially if they are not highly motivated to sell, has the upper hand.
 - Mail the appraiser's credentials to the landowner along with timing for completing the appraisal. The owner is likely to trust the appraiser and less likely to be offended if the appraisal is lower than their asking price.
 - Talk about price in terms of what you can afford, the owner's needs, and what the appraiser says the property is worth. Avoid negotiating price based solely on your opinion of value and theirs..

- ◆ **Understand other landowner concerns.** Price is critical, but often there are other non-tangible things that matter to the landowner too. Do they want to crop the land one more year? Would they like (or not like) publicity? Exactly what boundaries do they want for the house they are retaining? Listen, and look for common ground.
- ◆ **The best negotiators place themselves in the middle,** between the owner and that part of the agency or organization that will approve the deal. Secure the authority to make a deal up to a certain amount that does not exceed the fair market value of the property. Do not go beyond this amount without additional approvals.
- ◆ **Use hypothetical discussions** to explore options, e.g., "Would this work for you? Again, this is easiest if you haven't put yourself in the position of final decision-maker.
- ◆ **The underlying principle of negotiations is "give and take".** It's best to ask for something in return when you make a concession. If you don't know what you want and it's an important issue, assure the seller that you understand their concern, but need to discuss it with others before accepting it. Then move on to other details.
- ◆ **Don't get carried away by the "deal".** You want the owner to know that you are interested in their property, not that you must have it. The ability to negotiate a good deal is lost if the owner senses your urgency for acquiring the property. Negotiations conducted in a situation of urgency or zealotry may either fall apart or lead to an inflated purchase price.
- ◆ **Many requests are unreasonable.** It's a good practice to discern how important an issue is to an owner and then give yourself time to decide the best response. If the owner asks for something that is questionable, say you need to check with others and see if you can get them to agree. Often the owner will tell you at that point how important it is.
- ◆ **Be willing to say "no".** There may be a point in the negotiations when you have to walk away without a deal saying, "I think we have made our best offer". You can always call the owner later and see if you can do more.
- ◆ **Negotiate verbally, then confirm in writing.** Take notes and document all meetings with the landowner. Ideas, tentative agreements and promises are difficult to remember. If important agreements have been reached, send a letter as a record of the agreement, e.g., "On Monday, we agreed that we will appraise the south ten acres of your property..."

- ◆ **Follow up.** Even if the deal does not happen as you hoped, think about how you can maintain the relationship over time so you will have another opportunity in the future. Let the landowner know what is happening and that you are still interested. Perhaps you should touch bases yearly or invite the landowner to events they are interested in.

For other negotiating tips, please refer to the book: *Doing Deals: A Guide to Buying Land for Conservation* (Chapter 9) written by the Trust for Public Land and published by the Land Trust Alliance and the Trust for Public Land.

**Appendix B
REQUEST FOR QUOTATION**

**Organization Name & Address
OR
Use Organization Letterhead**

Item:	FULL NARRATIVE OR ABBREVIATED NARRATIVE OR OPINION OF VALUE APPRAISAL of approximately XX acres of land in TOWNSHIP, COUNTY.
Description:	<p>The purpose of this appraisal is to determine value for possible FEE TITLE OR EASEMENT acquisition for park or open space, and to establish a rate of cost share assistance by the State of Wisconsin. Appraisal shall provide a "value per acre" figure or "site value" figure.</p> <p>Please see attached Appraiser Worksheet for description of the property and specific appraisal instructions.</p>
Product:	NUMBER copies of the appraisal, with original photos, are required.
Return this request for quotation by:	
Appraisal to be completed and delivered by:	

Quotation: \$	Hourly Rate*: \$
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* if additional services are required after appraisal is completed

Appraiser Name:	Certification Number: (REQUIRED)	
Agency:		
Address:		
Telephone:	E-Mail:	Fax:
Signature:		Date:

ACQUISITION WORKSHEET

PARCEL INFORMATION			PURCHASER	
County:			Organization:	
Town/Village/City:			Address:	
Title Holder(s):			Contact:	
Title Holder Address:			Title:	
Title Holder Phone:			Phone Number:	Fax Number:
Local contact (if different from Title Holder):			E-mail:	
Legal Description:			Other Project Partner, if any:	
Tax Parcel Number(s):			OTHER TRANSACTION INFORMATION	
Street Address of Project:			Type of Conveyance: Fee Simple <input type="checkbox"/> Easement <input type="checkbox"/>	
Assessment Year:	Land Improvements:		Property Improvements to be purchased: Yes <input type="checkbox"/> No <input type="checkbox"/>	
Acres	# or Estimate	\$ Assess Est.	Soils: Septic Suitability <input type="checkbox"/> Ag Productivity <input type="checkbox"/>	
Total:			Known easements, deed restrictions, title issues, And rights being retained by landowner:	
Wetlands:			Any identified site contamination: <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, attach remediation plans, costs and any deed restrictions related to identified site contamination	
Wooded:			ATTACHMENTS	
Flood Plain:			<input type="checkbox"/> Arial Photo	<input type="checkbox"/> Warranty Deed
Active Ag:			<input type="checkbox"/> Plat Map	<input type="checkbox"/> Conservation Easement & summary of major conditions
Other:			<input type="checkbox"/> CSM	<input type="checkbox"/> Current or previous year's tax bill
PROPERTY/PROJECT COMMENTS			<input type="checkbox"/> Survey	<input type="checkbox"/> List & brief description of improvements included in appraisal
<p>SAMPLE: Appraiser to establish fee value of vacant land at current market value. Parcel is adjacent to Pine Creek. Land is being appraised as potential expansion of park. Only land north of Hwy D is sought - approximately 30.2 acres.</p> <p>Appraisal must meet standards contained in DNR Real Estate Appraisal Guidelines.</p>				

APPENDIX C APPRAISAL CONTRACT

1. This contract is made and entered into by and between the GRANT APPLICANT and FIRM NAME OR APPRAISER NAME. If the appraiser is a partnership or firm, the designated Individual rendering the appraisal services will be APPRAISER NAME.
2. In consideration of the mutual covenants and agreements herein set forth and upon execution of this Contract, the Appraiser shall appraise the following legally described parcel of land:
3. The appraiser will provide a full narrative appraisal / abbreviated narrative appraisal / opinion of value (strike all but one) appraisal. _____(number) copies of the appraisal shall be submitted with photographs of the subject. Sales shall clearly show the appraiser's reasoning for his or her valuation of the property. The appraisal shall conform with the Uniform Standards of Professional Appraisal Practice, the Uniform Appraisal Standards for Federal Land Acquisition, and the Department of Natural Resources' (DNR) "Real Estate Appraisal Guidelines," hereafter called Guidelines, which are incorporated herein by reference and made a part hereof.
4. The appraiser will personally inspect the subject property, conduct an independent search for sales and inspect each sale used in the report. The appraiser will employ all appropriate approaches to value.
5. The property owner or his/her designated representative shall be contacted and given the opportunity to accompany the Appraiser during an inspection of the property.
6. The GRANT APPLICANT will pay the Appraiser no more than \$ _____ as compensation for services rendered. The Appraiser shall not be entitled to complete compensation until the appraisal report has been accepted by both the GRANT APPLICANT and the DNR as being in compliance with the terms of this Contract. The GRANT APPLICANT reserves the right to retain 50% of the appraisal fee pending review and acceptance of the appraisal report.
7. The Appraiser agrees to complete the appraisal on or before DATE, time being of the essence. In the event the appraiser fails to deliver the appraisal by the date specified above, the GRANT APPLICANT reserves the right to reduce the fee by 1% for each business day that the appraisal is late. If the appraisal is not delivered within 30 days from the date specified above, the GRANT APPLICANT reserves the right to terminate this contract, in which case the GRANT APPLICANT shall not be liable for payment for an appraisal submitted after that date.
8. The appraisal report will be reviewed by both the GRANT APPLICANT and DNR to determine if the report is acceptable and meets the terms of this contract. Both the GRANT APPLICANT and DNR may require correction of errors and oversights or request that additional information or documentation be submitted by the Appraiser to further support the appraisal without cost to the GRANT APPLICANT. The Appraiser agrees to fully cooperate and answer any such request within 10 days from the date of such request.

9. No additional fees or charges shall be allowed except by written consent of the GRANT APPLICANT. By written notice, the GRANT APPLICANT may request changes in the appraisal or in the scope or character of the work to be performed and, for minor additions, will pay the Appraiser at an agreed rate. Where the GRANT APPLICANT determines that the changes involved are major, the GRANT APPLICANT may either (1) cancel this Contract as provided in paragraph 11, or (2) by written notification may request changes, corrections or renegotiation of this Contract to make provision for the necessary changes.
10. This Contract, together with the specifications in the bid request, and referenced parts and attachments, shall constitute the entire Contract and previous communications or contracts pertaining to this contract are hereby superseded. Any contractual revisions including cost adjustments and time extensions must be made by an amendment to this Contract or other written documentation, signed by both parties.
11. The GRANT APPLICANT reserves the right to cancel this contract by written notice to the appraiser in the event the GRANT APPLICANT determines that the appraisal becomes unnecessary or if the GRANT APPLICANT determines that the Appraiser is not complying with the terms of this Contract or if the progress or quality of work is unsatisfactory to the GRANT APPLICANT or for any reason which adversely reflects upon the credibility of the Appraiser or the integrity of the GRANT APPLICANT. The GRANT APPLICANT may pay for those services rendered to the date notice is received, except no payment shall be made where the cancellation is the result of unethical practices or violation of the terms of this Contract by the Appraiser. All materials, information and data pertaining to this appraisal in the possession of the Appraiser at the date of cancellation is the property of the GRANT APPLICANT and shall be forwarded promptly upon request.
12. The Appraiser warrants that he/she has not employed or retained any company or person, other than an employee working solely for the Appraiser, to solicit or secure this Contract and that he/she has not paid or agreed to pay any company or persons, other than an employee working solely for the Appraiser, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the making of this Contract. For breach or violation of this warranty, the GRANT APPLICANT shall have the right to immediately cancel this Contract without liability.
13. The Appraiser and the GRANT APPLICANT certify that no promise of or payment of any money or any form of consideration has been offered to or given to any GRANT APPLICANT employee for the purpose of procuring this Contract. The Appraiser further certifies that the Appraiser has not participated in any collusion or otherwise taken any action in restraint of free competition in connection with this Contract.
14. The Appraiser warrants that he/she has no direct or indirect, present or future personal interest in the property covered by this Contract and shall not benefit from any conveyance of the property appraised.
15. The Appraiser understands and agrees that his/her independent estimate of value is sought. The GRANT APPLICANT may authorize Appraisers to share specific appraisal data on appraisal assignments. The Appraiser agrees not to discuss or convey information used in connection with this appraisal to any person or entity except the property owner when necessary to gain entry for an inspection. This appraisal is strictly confidential.

16. The Appraiser agrees to indemnify and save the GRANT APPLICANT, its officers, agents and employees harmless against and from any and all claims, causes of action, damages, accidents, injuries, costs, expenses, demands, suits and liability arising from any action in connection with this Contract, or from any breach or default by the Appraiser with respect to the performance of the Contract, or from any negligence on the part of the Appraiser, its agents, representatives, employees, and contractors.
17. The Appraiser shall not assign, transfer or subcontract this Contract without the prior written approval of the GRANT APPLICANT.
18. The Appraiser is an independent contractor and not an employee of the GRANT APPLICANT. The GRANT APPLICANT agrees that the Appraiser shall have sole control of the method, hours worked, and time and manner of any performance under this Contract other than as specifically provided herein. The GRANT APPLICANT takes no responsibility for supervision or direction of the performance of the Contract to be performed by the Appraiser or the Appraiser's employees or agents. The GRANT APPLICANT further agrees that it will exercise no control over the selection and dismissal of the Appraiser's employees or agents.

APPRAISER OR FIRM NAME

Signature

Date

APPLICANT NAME

Signature

Date

Appendix C - 1
Department of Natural Resources
Guidelines for Developing A Project Narrative and Land Management Plan

All grant applications to the Knowles-Nelson Stewardship Program must include a project narrative and draft land management plan that describes the benefits and natural values of the project and explains how those values will be maintained over time. Decisions regarding project funding are based, in part, on information in this document. It should also serve as a long-range planning tool for the project sponsor. Check with your CSS if you need assistance with your grant application and plan.

Please submit the narrative and plan with the application form, but as a separate "stand alone" document. The Department may recommend revisions to the draft plan before final adoption. It will become part of the Stewardship grant and management contract should the project receive funding. Attach maps as an appendix.

The following points should be addressed in your narrative and plan. If some of the issues are not applicable, please indicate they are not and explain why. Some sections may require more detail than others, depending on the type of project:

1. Primary goals of the project

Concise statement explaining the benefits of the project, why the site should be preserved, and how it will be managed.

2. Description of the site

Indicate the size of the project and describe the natural features of the land; provide information about natural communities, land cover, species, topography, water resources, and special features (including archeological and historic features, if any). If the project includes a number of parcels of land, either list those here or attach as an appendix.

Describe existing conditions, current uses of the land, and provide a brief history of past uses and disturbances. Also describe any present threats to the natural values of the site.

If an inventory of plant or animal species has been done, please attach as an appendix.

3. Improvements and structures

General description of existing and proposed physical improvements and structures, if any. These might include, but are not limited to: trails, parking areas, signage, interpretive displays, boardwalks, bridges, boundary markers, picnic grounds, athletic facilities, waterway modification devices, restrooms, roadways, etc.

Identify access points and how access will be provided; plans for vehicle parking and posting of property for public access.

4. Problems

Describe any problems such as exotic species, erosion, over-grazing by deer, dumps, toxic wastes and contamination, debris which needs to be removed, environmental intrusions such as overhead power lines, etc.

5. Adjacent land uses

Describe how adjacent properties are being used and any anticipated changes in those uses

6. Public access and public use

Describe how the public will be able to use the site and what activities will be permitted, such as nature study, bird watching, research, education, hunting and fishing, etc. If no public access is planned, explain why not.

7. Land management practices

Describe general land management practices that shall be followed to meet the goals of the project and conserve the natural resources of the site.

Describe management requirements for specific communities, features or species of concern and the proposed management strategy for each to ensure long-term viability or to correct problems.

Identify any management issues and proposed solutions. Describe any site enhancement and restoration plans. Discuss plans to deal with any of the problems cited in #4 above.

8. Implementation

Identify proposed time line for implementing key management activities and priorities. When and how will the land management plan be accomplished? What ongoing maintenance activities will be needed (such as trash removal, surveillance, vehicle/visitor control, exotic species removal, controlled burning, etc)?

Who is responsible for maintaining the property and implementing the plan?

Describe any partners who will play an active role and attach any third party management agreements.

9. Monitoring

Describe procedures for assessing progress in meeting management plan objectives and mechanisms to measure progress.

10. Appendix

Maps

APPENDIX D - DEFINITIONS

<i>Term</i>	<i>Definition</i>
Appraisal or Appraised Value	An opinion of value based on an analysis of adequate data by a person qualified to develop such an opinion. Appraised value is often referred to as an estimate of value.
Appraisal Report	A written report by an appraiser containing an opinion as to the value of a property and the factual data on which that opinion is based. The DNR accepts three types of appraisal reports, depending on the value of a property: Opinion of Value, Abbreviated Narrative Appraisal and Full Narrative Appraisal. See Appraisal section of guidelines for further information.
Appraiser	A person who is trained and educated in the methods of determining the value of property through analysis of various factors, which determine said value.
Assessed Value	A dollar amount assigned to taxable property, both real and personal, by an assessor for the purpose of taxation. This value is frequently a statutorily determined percentage of market value for a given year.
Bargain Sale	In a bargain sale of land, the land is sold for less than its fair market value. This makes the land more affordable for the land conservancy, local government or agency and also offers the landowner several potential benefits. A bargain sale provides cash to the landowner, may reduce capital gains taxes, and entitles the landowner to a charitable income tax deduction based on the difference between the land's fair market value and its sales price.
Certified Survey Map	A map prepared by a licensed surveyor in accordance with Section 236.34 of the Wisconsin Statutes and recorded by the Register of Deeds' office. It may consist of up to 4 lots or outlots.
Chain of Title	The chronological order of conveyance of a parcel of land from the original owner (usually the government) to the present owner.
Chattel Interest	A non-ownership right in real estate, such as a lease, easement, or lien.
Closing Statement or Settlement Statement	A final financial statement for a real estate sale, listing the debits and credits of both buyer and seller.
Contaminated Site	A site on which a hazardous substance, hazardous waste or petroleum product has been released or is suspected of being released, and which has been reported to a government agency.
Contingency	A clause in a contract that requires that something must occur before the contract is binding. For example, in an Offer to Purchase, a statement that purchase of a house is contingent upon the buyer obtaining financing.

<i>Term</i>	<i>Definition</i>
Conveyance	A written instrument that passes an interest in real property from one person to another; may be a deed, mortgage, lease, but not a will.
Counteroffer	An offer proposed in response to an offer that is unsatisfactory (opposite of an acceptance). Example: Jane offers to buy Bill's house for X dollars. Bill, in response, offers to sell to Jane at a higher price. Bill's offer to Jane is a counteroffer.
Deed	A written instrument, under seal, which when delivered, transfers a present interest in property to another.
Deed Restriction	A limitation recorded on a deed, which most commonly restricts use of a property; often runs with the property and passes from one owner to the next (see Restrictive Covenant).
Due Diligence	Process of thoroughly examining environmental conditions of a property and legal aspects of a real estate transaction to ensure risks associated with property acquisition are minimized.
Easement	A conservation easement is a way to convey some of the land rights associated with ownership of property to another party. It is a voluntary legal agreement between a landowner and a government agency, local unit of government, or a qualified nonprofit organization that conveys specific rights and permanently limits specified current and future use (see text box on page 2 for complete description and differences with fee title).
Eminent Domain	Right of the government to take or authorize the taking of private property for public use, with "just compensation" being given to the owner.
Encroachment	Intrusion upon or use of the property of another without permission, often by gradual advances over a boundary; generally, includes construction on the property of another, such as a fence, road or building.
Encumbrance	A claim, lien, charge, or liability attached to and binding real property. Any right or interest in land held by someone other than the owner, but which will not prevent the transfer of fee title.
Environmental Impact Study	An investigation designed to assess the comprehensive and long-range environmental effects of a proposed land use on society.
Environmental Site Inspection	A physical assessment of a site (land and improvements) to determine if environmental problems or contamination exist.
Fee Simple	A synonym for ownership of property; owner has unrestricted right to dispose of the property.
Fee Title Acquisition	The outright purchase of land including the transfer of title to the property and all the rights associated with ownership.
Floodplain	The flat portions of land located along watercourses and streams, which are subject to overflow and flooding.

<i>Term</i>	<i>Definition</i>
Gap Endorsement Coverage	Also known as "owners extended coverage" or "gap insurance"; title insurance that covers the period of time between preparation of the title commitment and when the deed is recorded.
Grantee	A person or entity to whom property or property rights is transferred by deed or other legal document.
Grantor	A person or entity who transfers property or property rights by deed or other legal document.
Highest and Best Use	That reasonable and probable use of property that supports the highest present value, as defined, as of the effective date of an appraisal.
Improvement	Any structure or other development on a property, including buildings, roadways, utilities, boardwalks, signs, etc.
Just Compensation	Provided for in the Constitution and defined by the courts as the full and fair value for which a property owner has established a claim to compensation when his/her land is taken for public use. In most cases, it is payment of the market value of the real estate which is being taken.
Land	A general term that includes the ground plus anything natural that is attached to it, such as trees, crops, minerals; includes subsurface rights to the center of the earth, surface rights and air rights to infinity.
Legal Description	A method of geographically identifying a parcel of land, which is acceptable in a court of law.
Lien	A claim on a property as security for payment of a debt. All liens are encumbrances, but not all encumbrances are liens.
Market Value	The most probable price a property should bring in a competitive and open market under all conditions necessary for a fair sale.
Metes and Bounds	Description of a property's boundary lines, using terminal points and angles. Originally metes referred to distance, bounds to direction; now the words have no individual meaning of practical significance.
Municipality	A city, town or village having its own incorporated government for local affairs.
Offer to Purchase	A contract between the buyer and seller of real property setting forth the price and terms of the sale. Once the contract is signed by both parties, they are each obligated to the sale according to the terms of the contract.
Opinion of Title	A certificate pertaining to title in real property from an attorney or a title insurance company.
Option to Purchase	An agreement in which a property owner gives a buyer the right, but not the obligation, to buy a property within a specified time period.

<i>Term</i>	<i>Definition</i>
Ownership of Record Search	A service provided by a title company that provides a copy of the last deed for a property. It identifies the current owner and provides the legal description.
Parcel	A piece of land, regardless of size, in one ownership.
Phase I Environmental Assessment	Investigation of a property to identify areas of known or potential environmental contamination. Typically includes, but is not limited to, reviewing records, interviewing persons, and conducting physical inspections of the property in question. Sampling and analysis of media do not occur during the Phase I EA, but are planned for based on the results of the Phase I.
Phase II Environmental Assessment	The Phase II Environmental Assessment is conducted to physically confirm the presence or absence of environmental contamination at a site. It is not meant to determine the nature and extent of contamination. The Phase II EA should include, but is not limited to: field sampling of media, laboratory analysis of samples and visual confirmation of environmental contamination at the property.
Plat	A plan, map, or chart of a city, town, section, or subdivision indicating the location and boundaries of individual lots.
Quit Claim Deed	A form of conveyance whereby whatever interest the grantor possesses in the property described in the deed is conveyed to the grantee without guaranteeing or warranting the interest.
Real Estate	Land and anything permanently affixed to the land, such as buildings, fences and those things attached to the buildings such as light fixtures, plumbing and heating fixtures or other items that would be personal property if not attached. The term is generally synonymous with real property.
Recognized Environmental Condition	The presence or likely presence of any hazardous substance or petroleum product on a property or the threat of release of such substances into structures on the property or into the ground, groundwater, or surface water of the property.
Recording	The act of entering documents affecting or conveying interests in real estate in the Register of Deeds office. Until it is recorded, a deed, mortgage or other document is not usually effective against subsequent purchasers or mortgages.
Relocation Plan	The program of governmental agencies for effecting relocation of occupants of a property, such as an urban renewal area, who will be displaced by project activities or by other governmental action.
Remediation	The process of restoring a contaminated site.
Restrictive Covenant	A private agreement restricting the use and occupancy of real estate. It is attached to the deed or recorded as a separate document and is binding on all subsequent purchasers.

<i>Term</i>	<i>Definition</i>
Section	In the Public Lands Survey system, is one of the 36 sections, each a mile square, into which each township is divided.
Survey	The measurement of the boundaries of a parcel of land, its area, and sometimes its topography.
Title	Legal documentation that shows an owner has the right of ownership of a property.
Title Commitment Report	Report prepared by a title insurance company prior to closing on a property that shows all the information that appears in the public record about a property.
Title Insurance Policy	Insurance against loss resulting from defects of title to a specifically described parcel of real property. Defects may run to the fee (chain of title) or to encumbrances.
Trustees Deed	A legal instrument, which when executed and delivered, conveys or transfers property title to a trustee.
Warranty Deed	A deed that conveys fee title to real property. Under a Warranty Deed, the Grantor is bound to defend the Grantee's title to the property. Until the widespread use of title insurance, the grantor's warranty was very important to the grantee. When title insurance is purchased, the grantor's warranty is less important as a practical means of recovery for defective title.
Wetland	An area where water is at, near or above the land surface long enough to support aquatic or hydrophytic vegetation.
Zoning Ordinance	A regulation enacted by a local government dividing a city or county into areas (zones), and specifying the uses allowable for the real property in those areas.