

**CHAPTER 95-02.1-05**  
**SUPPLEMENT PROGRAM INFORMATION**

Section

95-02.1-05-01 Supplemental Program Information

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**1. Funding level.**

- a. Unless otherwise designated, proposals are not limited to a specific dollar amount. The commission reserves the right to increase or decrease the amount of requested funding based on its findings and on its level of available funds. The commission also reserves the right to fund in whole or in part specific portions of eligible proposals. Requests must be justified with respect to the scope of the project.
- b. Except when restricted by legislative directive, or by available funding in commission-administered ancillary programs, the commission may allocate funds to projects in any of the categories.
- c. The commission may elect to limit total funding during any particular quarter, and may disperse available funding over the quarters of a biennium in order to provide opportunities for meritorious projects that may submitted later in the biennium.

**2. Due date.**

- a. Proposals may be submitted anytime within the biennium. Deadline dates for submission are January first, April first, July first, and October first. Prototype and technical assistance grants deadlines are December first, March first, June first, and September first. Only fifteen proposals will be considered at each commission meeting based on the date received. Eligible proposals received after the quota has been met will be deferred until the next commission meeting.
- b. Reviews and grant awards will be made on a quarterly basis.
- c. Generally, grants are limited to a one-year time frame.

**3. Multiple, concurrent, and successive proposals.**

- a. Generally, applicants are only allowed to apply for one grant at a time. Multiple proposals from the same applicant will be considered if each proposal covers distinctly different projects.
- b. Proposals that have been submitted under other state, federal, or private grant programs may be considered concurrently by the commission. Proposals that contain matching funds from other grant programs must demonstrate contingent approval from appropriate sources prior to release of funds by the commission. Similarly, agricultural products utilization commission grants that are used as match for other grants may be held, with contingent approval, until the other grants have been approved.
- c. Upon completion of a grant, applicants may apply for a successive grant if the subsequent grant demonstrates an important next step; however, the commission reserves the rights to limit or deny the number or amount, or both, of funding of successive grants without cause.

**4. Commission review.**

- a. Acting on behalf of the commission, the staff reviews submitted proposals. Incomplete, ineligible, or inappropriate grants may be rejected by the staff or returned for amendment.
- b. Eligible proposals are distributed to commission members for review prior to commission meetings. As part of the review process, commissioners or staff, or both, may contact references, experts, government agencies, and other sources to help ascertain feasibility of the project and credibility of the applicants.
- c. Each proposal will be considered individually on its own merits, and according to the stated criteria, by the entire commission. Applicants will be invited to present their proposal, discuss relevant points, and clarify components at a commission meeting; however, the predominant consideration will be based on the written proposal. Generally, presentations will be limited to thirty minutes divided into presentation and questioning periods as determined by the commission chair.
- d. A decision to accept, modify, or deny each project will then be made, by majority vote of at least a quorum of the commission. Should the process produce a funding level less than the amount requested in the proposal, the commission staff will confer with the applicant to determine whether the amount recommended would be acceptable to further the goals of the project.
- e. The decision of the commission is final, binding, and not subject to review or appeal except as allowed by law. Projects that have been denied funding cannot be resubmitted in their original form. Revised projects may be considered as new submissions.
- f. By law, no member of the commission may participate in, or vote on, a decision of the commission relating to a project or a business, or both, which would constitute a conflict of interest.

**5. Grant administration and reporting.**

- a. Applicants will be notified of the commission's decision. The commission is under no obligation to provide rationale for its decision; however, the applicant may request an advisory report that could point out some of the considerations in the decision.
- b. Successful applicants shall adhere to the conditions outlined in this article and North Dakota law. Following approval of the grant award, a formal grant contract will be entered between the agricultural products utilization commission and the grantee. This agreement will specify the agreed-upon objectives, tasks to be performed, timeline and budget, fund release schedule, and any other conditions specific to the individual proposal. Under the terms of all grant contracts, the grantee will be required to submit to the commission periodic interim reports outlining progress and both timeline and budget compliance.
- c. In most cases, the entire grant amount will not be released at the time of the commission's decision. In such instances, funds released will be tied to the grant contract, and any insufficiencies with the contract may result in withholding of further funding.
- d. Grantees will be required to submit a final written report describing the work performed and the results obtained prior to final release of grant funds. This report must be supplemented by a financial report of all expenses actually incurred and income generated by the project.

**6. Audit and defaults.**

- a. As a state agency, the commission is subject to audits through established procedures.

- b. To protect the investment of the commission and of the people of North Dakota, all financial documents, books, receipts, orders, expenditures, electronic data and accounting procedures, and practices of the grantee are subject to examination by or for the commission at any time for three years following the completion of the project.
- c. When a grant is in default because of inadequate reporting, inappropriate use of grant funds, or nonuse of funds, any moneys that have not yet been released will be withheld. Should such grave insufficiencies exist that the project appears to the commission in jeopardy, the contract may be canceled, and all funds previously released may be recovered through collection procedures.
- d. Funds retrieved from vacated and incomplete projects will be returned for redistribution as grants. If the grant originated from special funding, the return and redistribution will be within that funding source.

**7. Eligible uses of funds.**

- a. Eligible uses of funds are detailed in each of the category descriptions and as part of the application form.
- b. In general, agricultural products utilization commission grant funds are for enhancements, improvements, and new ventures and should not be used to defray the normal operating costs of the individual or business, including salaries of individuals in the business.
- c. Projects that bring producers, processors, distributors, buyers, and other individuals important in a supply chain together in a forum that fosters contacts and information exchange supportive of marketing ventures.

**8. Confidentiality and disclosure.**

- a. Generally, proposals, grants awards, reports, and proceedings are open records and may be disclosed as allowed under North Dakota law.
- b. An applicant may request confidentiality of all portions of a proposal to protect the applicant's intellectual property rights. Such proposals or sections of proposals must be clearly marked as "Proprietary". The commission may limit the dissemination of information regarding confidential proposals, including considering the proposal during an executive session, however, the commission is not, in any event, liable for inadvertent disclosure.
- c. By accepting an agricultural products utilization commission grant, awardees agree to serve as a contract for individuals interested in pursuing a similar project.
- d. Under the term of all grant contracts, the grantee may be required to submit to the commission periodic interim reports outlining progress and both timeline and budget compliance. In most cases, the entire grant amount will not be released at the time of the commission's decision. In such instances, the release of funds will be tied to the grant contract and any insufficiencies with the contract may result in withholding of further funding. Grantees will be required to submit a final written report describing work performed and the results obtained, prior to final release of grant funds. The report must be supplemented by a financial report of all expenses actually incurred and income generated by the project.

**9. Ownership.**

- a. Subject to the policies, if any, of participating public programs and entities, rights to use products, processes, or services developed under this grant program will remain with the grantee.
  - b. Subject to the same policies, the ownership and all rights to project outcomes may revert to the commission if the grantee or assignee fails to market the product, process, or service in accordance with individually negotiated funding contracts. In such cases, the commission may provide notice and the opportunity to others to assume control of research projects. In these cases, priority will be given to any license under such property or others who benefit North Dakota commercially, with first priority being given to small firms in nonurban areas of the state.
10. **Royalty agreements.** The commission may receive royalties on the sale or lease of any product, process, or service developed under a commission grant. Royalty agreements will be negotiated at the time of the grant award and will be structured so that the commission may recover at least a portion of the investment of public funds. Repaid funds will be used to make new investments in other agricultural products utilization commission projects.

**History:** Effective April 1, 2012.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 4-14.1-02