

COMMONWEALTH OF PENNSYLVANIA  
Department of Conservation and Natural Resources

***Bureau of Recreation and Conservation (BRC)***  
Administrative Policy/Grant Guidelines

**SUBJECT:** Waiver for Retroactivity

**EFFECTIVE DATE:** 12/30/09

**REVISED:** 12/27/10, 01/06/12, 5/6/14, 5/27/14, 7/21/15, 8/17/16, 8/17/16, 12/5/18

**BACKGROUND:** Grants are awarded to assist with projects to be undertaken after the award of a grant, rather than to pay or reimburse grantees for projects that have begun or are completed prior to the award of a grant. In special situations, the Bureau may permit grant funds or required match to be applied to project costs incurred before the date of the grant award. This permission is referred to as a "Waiver for Retroactivity."

This policy details the process for requesting a "Waiver for Retroactivity" that would allow for reimbursement consideration of pre-grant award costs if a grant application is later selected for funding.

Per the Grant Agreement and Bureau policies, presuming a grant is awarded, certain costs incurred prior to the grant award are eligible if they are for items necessary to submit a grant application such as, the preparation of site development drawings for a development project or half of the cost for an appraisal. Due diligence costs incurred as part of the organization's preliminary work on a land acquisition project will also be considered eligible (including surveys, environmental assessments, title work, etc.). A "Waiver for Retroactivity" is not required for the above identified costs; this policy addresses situations involving costs beyond these items.

**POLICY:**

All letters requesting waivers for retroactivity shall be submitted by the applicant to the Bureau Director. Requests must be signed and dated by the applicant on the applicant's official letterhead.

Bureau Director  
Bureau of Recreation and Conservation  
Rachel Carson State Office Building  
P.O. Box 8475  
Harrisburg, PA 17105-8475

A waiver does not guarantee or in any way affect the chances of a project being selected for funding. It merely gives the applicant a project start date to which grant funds would be applied retroactively, should the project be selected for funding.

The waiver process was primarily designed for the following situations:

- for land acquisition or land donation where the property owner needs to settle or donate land by a certain date;
- for an estate sale; where property might be lost;
- where an applicant must enter into an option/sales agreement and pay earnest money;
- for situations where DCNR is jointly funding projects with other Commonwealth agencies or;
- to deal with situations such as natural disasters.

The waiver must be approved in writing by the Department prior to the applicant going to settlement and taking possession of the land. Whether acquiring land or accepting land as a donation to be used as match must not occur until after the waiver has been approved. Waivers cannot be granted for project needing Pennsylvania Recreational Trails funding.

A grant applicant who wishes to request a waiver must contact their Regional Advisor for preliminary direction prior to submission of the written request to the Bureau Director. The request shall include the following:

- a copy of the draft or signed sales agreement, include the settlement date if known;
- a map, such as an aerial photo or parcel map that clearly identifies the parcel boundary;
- other information that would help explain the project, including, acreage, project site location, timeline for settlement (urgency), other funding time constraints, etc.;
- for land donations only, explain how the donated parcel relates to the proposed project; and
- the applicant's complete contact information.

The request will be reviewed by the appropriate Bureau staff and a written response provided.

When waivers are granted, applicants are still responsible for completing and submitting a complete grant application by the application deadline.

If the Bureau approves a waiver, it will approve it for a specific project and round of funding and will be effective as of the date of the letter submitted to the Bureau. The waiver will not cover work performed prior to that date. The waiver date will be the beginning date of the grant agreement, if a grant is later awarded.

Waivers can be granted only during certain times for specific times going forward, on a case by case basis. When an application period is "Open", a waiver can be granted for that funding round which is open but cannot be granted for the funding round that will follow it. Once applications are received, the Bureau may grant a waiver for an applicant to proceed with work while the application is under review if deemed appropriate and necessary by the Bureau. After an open application period closes, a waiver can be granted for the next round of funding that will be open.

If the Bureau approves a request for a waiver but the project is ultimately not selected for funding, the waiver cannot be applied to a grant application submitted in a future round of funding.

This policy remains in effect until revised or rescinded.