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, 9/9/19

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 allow grant funds or approve expenses for projects where costs were incurred before the date of the grant award. This action is referred to as a “Waiver for Retroactivity.”

Per the Grant Agreement and Bureau policies, presuming a grant is awarded, certain costs incurred prior to a grant award for “due diligence” or other necessary expenses are deemed eligible for reimbursement without a waiver of retroactivity if they are for items necessary to submit a grant application. These items include most commonly but are not limited to:

- Site development drawings for development projects,
- Appraisals and title work for land conservation projects,
- Surveys and environmental assessments.

This policy details the process for requesting a “Waiver for Retroactivity” approval for costs that go beyond due diligence costs.

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 can be applied to the following situations:
Land Acquisition or Land Donation:
• When the applicant needs to purchase or accept land by a certain date to avoid the property from being lost; or
• When an applicant must enter into an option/sales agreement and pay earnest money;

Other situations that may warrant a waiver:
• For projects where DCNR is jointly funding with other Commonwealth agencies;
• For projects that need to be expedited to deal with natural disasters; or
• For other project situations at the sole discretion of the Department.

The waiver must be approved in writing by the Department prior to costs being incurred. Waivers cannot be granted for projects 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:

Acquisition Projects:
• The applicant’s complete contact information.
• 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; and
• 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, explain how the donated parcel relates to the proposed project.

Other Projects:
• The applicant’s complete contact information;
• A description of the project and the need for the waiver; and
• Any additional information to justify the project/waiver request.

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 be for a specific project and round of funding. The waiver date and any subsequent grant contract start date will be the request letter date.
submitted to the Bureau Director. The waiver will not cover work performed prior to that date. Extensions on waiver requests may be granted on a case by case basis.

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.