



*Note: This is a guidance document and not a new law. It is an ISWCC interpretation of existing law. If you have any questions, or wish to provide input on this guidance document, please contact Terry Hoebelheinrich at [terry.hoebelheinrich@swc.idaho.gov](mailto:terry.hoebelheinrich@swc.idaho.gov).*

## IDAHO SOIL & WATER CONSERVATION COMMISSION

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### Resource Conservation and Rangeland Development Program (RCRDP) Loan Procedure and Policy

The purpose of this policy is to assist Districts and Applicants interested in participating in the Resource Conservation and Rangeland Development Program in accordance with Idaho Code §§ 22-2730 through 2732 and IDAPA 60.05.01

- I. **Purpose:** The purpose of the Resource Conservation and Rangeland Development Program (RCRDP) is to provide financial assistance to eligible applicants for the implementation of resource management projects, which include but are not limited to:
  - A. Conservation of soil and water resources
  - B. Promotion of efficient and beneficial use of Idaho's water resources through the implementation of TMDLs
  - C. Improvement of riparian areas for multiple uses
  - D. Increased productivity of croplands, pasture, rangelands, and woodlands
  - E. Conservation and improvement of fish and wildlife habitat
- II. **Definitions:**
  - A. **Applicant:** An eligible applicant as defined in Section 22-2717, Idaho Code.
  - B. **Application:** The loan request document that sets forth the information required by Section 22-2732, Idaho Code and Subsection 057.03 of these rules, including a conservation plan.
  - C. **APR:** Annual Percentage Rate.
  - D. **Assets:** Actual funds, equipment, real property and chattels owned by the Applicant.
  - E. **Borrower/Contractee:** The Applicant after the loan has been closed and recorded.
  - F. **Chattel:** Tangible personal asset.
  - G. **Collateral:** Assets or other property pledged to secure a loan or debt, usually funds or personal property as distinguished from real property.
  - H. **Commission:** The Idaho Soil and Water Conservation Commission as defined in Section 22-2718, Idaho Code.
  - I. **Conservation Plan:** A conservation plan as defined in Sections 22-2717 and 22-2732, Idaho Code that sets forth the information by Subchapter A of these rules.
  - J. **District:** A soil conservation district as defined in Section 22-2717, Idaho Code.
  - K. **Field Office Technical Guide:** The primary scientific reference for NRCS that contains technical information about the conservation of soil, water, air, and related plant and animal resources. Technical guides used in each field office are localized so that they apply specifically to the geographic area to the geographic area for which they are prepared. Copies of the field technical guides may be obtained from a local District or field office.
  - L. **Lien:** Any claim or charge against property or funds for payment of a debt.
  - M. **NRCS:** The United States Department of Agriculture Natural Resources Conservation Service.
  - N. **Other Funds:** Federal, state, or private funds to be dedicated to conservation practice implementation costs.

- O. Personal Property:** Assets other than real property owned by the Applicant.
- P. Practice or Eligible Practice for Loans:** A practice as listed in the field office technical guide or a special practice approved under Section 058 of these rules.
- Q. Project:** One (1) or more practices to be installed using RCRDP loan funds.
- R. RCRDP:** The Resource Conservation and Rangeland Development Program.
- S. Real Property:** Land and anything permanently affixed to the land, such as buildings, structures, fences, fixtures and those other things attached to the buildings and structures.
- T. Security:** Collateral provided by an approved applicant to secure loan funds.
- U. Title Insurance:** Insurance against the loss or damage from defects or failure of title to real estate, or from the enforcement of liens existing against it at the time the policy is issued.
- V. UCC-1:** A financing statement form filed with the Secretary of State or the county recorder which provides notice of a creditor's secured interest in equipment, fixtures or other property.

### **III. Program Parameters:**

#### **A. Loan Specifications**

- 1. Loan Amounts:**
  - a) The maximum loan amount available is \$600,000 (six hundred thousand dollars),
  - b) Applicant is required to fund at least 5% (five percent) of total project costs with personal funds or in-kind services. Personal funds may not be obtained from borrowed sources.
- 2. Interest Rates:**
  - a) All loans will charge simple interest on the outstanding principal balance.
  - b) The loan interest rate shall not exceed six percent (6%) annually. The loan interest rates effective August 29, 2019 are:
    - (1) Two and three quarters percent (2.75%) APR for loans one to seven (1-7) years in length
    - (2) Three percent (3%) APR for loans eight to ten (8-10) years in length
    - (3) Three and one quarter percent (3.25%) APR for loans eleven to twelve (11-12) years in length
    - (4) Three- and one-half percent (3.50%) APR for loans twelve to fifteen years in length
    - (5) Five and one quarter percent (5.25%) APR with new equipment and second mortgages as collateral
    - (6) Six percent (6%) APR with new equipment and used equipment and second mortgages as collateral.
  - c) A default interest of eighteen percent (18%) APR may be assessed on installment balances of past due accounts (see section VIII of policy, Account Maintenance for specifications).
- 3. Loan Terms:**
  - a) Loans secured by a Real Estate mortgage shall have a maximum term of fifteen (15) years.
  - b) Loans secured exclusively by chattels shall have a maximum term of ten (10) years.
  - c) The Applicant is responsible for all costs incurred for loan closure including, but not limited to, title insurance, recording fees, and equipment insurance.

## **B. Security / Collateral**

1. All loans shall be made on a secured basis only.
2. Maximum loan amount generally will not exceed eighty percent (80%) of the established market value of the collateral. Exceptions are on a case-by-case basis.
3. Loans shall be secured by real property and/or chattel security.
  - a) Real Property
    - (1) Land offered as collateral generally must be the same land to which funded practices will be applied. Any other circumstances will be considered on a case-by-case basis.
    - (2) Security on real property may consist of a first or second mortgage or deed of trust.
    - (3) Title insurance will be required, at the borrower's expense, on all loans secured by real property.
    - (4) Current market value of real property will be determined by a current property tax assessment, appraisal by a licensed professional appraiser approved by the Commission, or other suitable valuation method agreed to by the Commission.
    - (5) A second mortgage on real property may be utilized at the discretion of the Commission. Total debt on pledged real property may not exceed seventy percent (70%) of the current market value of the collateral.
  - b) Chattel Security
    - (1) Chattel security will consist of a Security Agreement with a first lien on assets being purchased or installed with loan funds.
    - (2) A UCC-1 will be filed with the Office of the Secretary of State and, if a fixture filing, recorded with the local county clerk.
    - (3) In the absence of purchased assets and/or existing assets, additional or substitute collateral may be considered in order to maintain adequate collateral margin.
    - (4) A minimum collateral margin of more than twenty percent (20%) may be required at the discretion of the Commission.
    - (5) Chattel security requires a comprehensive insurance policy that is continuous during the term of the loan and names the Commission as a loss payee for the term of the loan.
4. Other types of security will be considered on a case-by-case basis.

## **C. Prioritization of Applications:** Priority is determined based upon two components:

1. The Commission's natural resource conservation objectives. A higher rank will be assessed based upon the following criteria, listed in respective order of priority:
  - a) Proposed project impacts a 303(d)-listed stream with a completed TMDL.
  - b) Proposed project impacts a tributary of a 303(d)-listed stream with a completed TMDL.
  - c) Proposed project impacts a 303(d)-listed stream or tributary of a 303(d)-listed stream without a completed TMDL.
  - d) Project does not directly or indirectly impact a 303(d)-listed stream or its tributaries but does utilize Best Management Practices and achieves conservation of natural resources.

2. The District's natural resource conservation objectives. The District will assess the project and issue a ranking of *High*, *Medium*, or *Low*, based upon the project's conformity to the District's objectives.

**D. Ineligibility:** Conservation plan projects and practices that have been completed prior to Commission approval are not eligible for funding.

#### **IV. *Application Guidelines***

The Applicant is required to notify the Commission, in writing, of any changes that occur during the application process related to required Application information, including, but not limited to, changes to project specifications, project materials or costs, funding needs, changes in the Applicant's financial status, and changes to the Applicant's credit status.

##### **A. Required Application Materials:**

1. Loan application materials may be obtained from the Commission office or the Commission website at <https://swc.idaho.gov/loan-application-steps/>.
2. The Commission will only consider complete applications as per IDAPA 60.05.01.57.

##### **B. Technical Inspection / Requirements:**

1. Applications will not be considered without appropriate technical input to the Commission.
2. The Applicant has the responsibility to obtain the appropriate technical assistance to ensure that the conservation improvements are properly designed and implemented.
3. Before any application is brought before the Commission for consideration, all necessary applications for permits must be filed or requested.

##### **C. Other Considerations**

1. In certain instances where the environmental benefits are compelling, the Commission may approve Projects in subdivisions or urban settings. All such approval will be based upon permanent conservation easements, effectively ending further urban encroachment on open space, riparian areas, or sensitive water quality areas.

#### **V. *Submission of Application and Review Procedures***

Any applicant desiring a loan from the RCRDP fund must:

##### **A. Prepare and submit a conservation plan.**

##### **B. Prepare and submit a completed loan application.**

##### **C. District Review:**

1. The District's responsibility is to evaluate the conservation plan based on the conservation priorities as identified by the District to address natural resource concerns.
2. Documents required for submission to the District:
  - a) Conservation Plan
  - (b) District Ranking Form
3. The District's Board of Supervisors will review and evaluate the conservation plan within 60 (sixty) days of receipt to determine if the project is consistent with the District's established priorities and objectives for implementing conservation improvement.

4. The District's Board of Supervisors will assign the Application a priority ranking.
  - a) High – The project addresses conservation priorities ranked high by the District.
  - b) Medium – The project addresses conservation priorities ranked medium by the District.
  - c) Low – The project addresses conservation priorities ranked low by the District.
5. Districts submitting more than one Application at a time will assign a numerical ranking to said Applications in the order of highest conservation priority to the lowest conservation priority.
6. After making a priority recommendation, the District will forward a copy of the District Ranking Form to the Commission and return all original documents to the Applicant.

**D. Commission Review:**

1. The Commission's responsibility is to evaluate the Application to determine whether there is reasonable assurance that the borrower can repay the loan, whether funds are available for the loan, and whether the loan is in the public interest.
2. Documents that may be required for submission to the Commission include:
  - a) RCRDP Loan Application
  - b) Conservation plan
  - c) Aerial map(s) or diagram(s) of the proposed project
  - d) Conservation District Priority Ranking (completed by conservation district)
  - e) Conservation Data Sheet (typically completed by technical assistance provider.)
  - f) Balance Sheet(s)
  - g) Three (3) years income tax returns, complete with schedules
  - h) Copy of photo identification of applicants
  - i) Completed NRCS release form
  - j) NRCS EQIP Schedule of Operations, (if applicable)
  - k) Copy of 319 Grant award or similar cost share (if applicable)
  - l) Itemized project bid or quote
  - m) Tax assessment for all parcels referenced in Conservation Plan and for real property offered as collateral
  - n) Documentation of water rights (if applicable)
  - o) Other information as required by the Commission
3. The Application Packet should be submitted at least four (4) weeks prior to a regularly scheduled Commission meeting in order to be considered at that next meeting unless another deadline has been established at the Commission's discretion.
4. The Commission will review and evaluate Applications during regularly scheduled meetings and, if expedited review is needed, by teleconference special meeting.
5. Approval authority for loans of \$75,000 or less is delegated to the loan officer and Administrator (Both must approve).
6. Loan denial authority is delegated to the loan officer.
7. The Commission will evaluate Applications based on the following factors:

- a) Applicant demonstrates the ability to repay the loan.
- b) Applicant demonstrates the willingness to repay the loan (credit history).
- c) The loan is adequately secured with collateral.
- d) Adequate funds are available to loan from the loan fund.
- e) Conservation benefit.
- f) The terms and conditions of loan approval.

## **VI. *Application Disposition***

- A. Notification:** The Applicant will be notified of their Application's disposition within five (5) business days of the credit decision or as otherwise appropriate.
- B. Reconsideration:** If the Application is disapproved, the Applicant may request reconsideration in writing within fifteen (15) days after notice of disapproval. Reconsideration of the disapproval will take place within ninety (90) days from the date the written request is received.
- C. Term of Commitment:**
  - 1. Loan commitment will be valid for six (6) months from the date of the loan approval.
  - 2. If the Applicant has not begun drawing proceeds at the end of six (6) months, the commitment will be cancelled, unless extension and verification of need of funds is received in writing. One six (6) month extension is allowed.
  - 3. Funds may not be used for projects that have not been approved by the Commission.
  - 4. Funds will be credited back to the loan fund when the loan commitment expires unless verification of need of funds or reason for project delay is received in writing by the Commission.

## **VII. *Disbursement of Funds***

- A.** A loan fee will not be charged for the initial processing and closing of an RCRDP loan.
- B.** Funds will not be disbursed prior to the execution and signing of required loan documents.
- C.** All disbursements are subject to the availability of funds at the time the disbursement is requested and will be processed on a first-come, first-served basis.
- D.** Requests for additional funding may be considered, subject to the following conditions:
  - 1. Request for additional funds must be received by the Commission in writing before loan commitment expires.
  - 2. Request must include an explanation of the need for additional funds.
  - 3. Additional funds requested must be applied towards the initially approved project.
- E. Technical Review:** All Projects must be site inspected by approved technical staff.
  - 1. All necessary permits and reviews must be completed or approved prior to any disbursement, partial or otherwise.

2. Certification of technical adequacy of the conservation improvements must be supplied to the Commission by the provider of the technical assistance prior to disbursement of loan funds.

**F. Partial Disbursements:**

1. Upon showing of good cause, partial disbursements of loan funds will be allowed at the Applicant's request.
2. The appropriate technical entity will review and document the extent of project completion or adherence to technical specifications and standards for partial payment purposes.
3. Five percent (5%) of the total loan amount will remain undisbursed until project completion. Final payment will be made when project is complete and final technical review received.

**VIII. *Account Maintenance / Repayment of Loans***

**A. Repayment:**

1. Repayment of the loan, together with interest, will commence according to the schedule set forth in the Loan Agreement., but in no event later than two (2) full years from the date the promissory note is signed.
2. Level Payment Plan: Loan payments remain equal for the term of the loan with principal payments increasing and interest payments decreasing with each payment.
3. Loan payments will be applied first towards actual interest accrued through the date the payment is received.
4. A repayment plan will be considered on each project approved. In cases where credit or security factors necessitate a more rapid reduction of principal, the term may be decreased.
5. RCRDP loans may be prepaid in whole or in part at any time without penalty.
6. For repayment schedules occurring on an annual or semi-annual basis, the Commission will mail the borrower a notice of payment due twenty (20) days before the payment is due. For repayment schedules occurring on a monthly or semi-monthly basis, the Commission will mail the borrower a notice of payment due at least ten (10) days before the payment is due.

**B. Short Term Extensions:**

1. The Commission Administrator may grant an extension of thirty (30) days from the date a loan payment is due ("short term extension"). Short term extension requests must be submitted in writing and state the reason for the request. Additional information may be required in support of the request including documents showing that the borrower will be able to resume payments consistent with the payment schedule set forth in the loan documents.

**C. Non-Payment:**

1. A ten (10) day grace period will be allowed before default interest is charged.
2. If the default continues past ten (10) days, the default rate will begin accruing on the installment and will be retroactive to the due date of the installment.
3. The default rate charged on all past due installments will be eighteen percent (18%) APR on the installment due.
4. Collection of payment on RCRDP loans will be diligently pursued.

5. The Commission may seek foreclosure or pursue other collection procedures as required according to the laws of the State of Idaho.

**D. Other Considerations:**

1. A minimum fee of \$250 (two hundred fifty dollars) may be charged for the processing of a partial release of collateral and other loan restructuring procedures.
2. Authority is delegated by the Idaho Soil & Water Conservation Commission to the Administrator to act on its behalf on requests for the following actions:
  - a) The Administrator may approve subordination agreements and partial release of mortgages, liens, and other security instruments on behalf of the Commission provided an adequate loan to value margin exists (see Section III.B - Security / Collateral).
  - b) The Administrator may, for good cause shown, approve loan modifications.
  - c) The Administrator may approve adjustments or write-offs to principal or interest not exceeding \$10.00 (ten dollars).
  - d) Requests for additional funding may be approved by the Administrator based on the following factors:
    - (1) Amount does not exceed \$5,000.00.
    - (2) The loan is adequately secured with collateral.
    - (3) Applicant demonstrates the ability to repay the loan.
    - (4) Adequate funds are available to loan from the loan fund.
    - (5) The additional project expense is necessary to meet the goals as set forth in the conservation plan.