

NOFO Rev. 1 Presentation Recording-20250801_102346-Meeting Recording

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Brittany C. Felder 0:03

My name is Brittany Felder, I'm the grants manager for the South Carolina Department of Environmental Services Dam Safety Program. In today's video, I'll be going over some of the updates and changes in Revision 1 of the Dam Repair Assistance Grant Notice of Funding Opportunity or NOFO, released on Friday, August 1st 2025.

Please note that this video update does not provide an overview of the entire grant program, just the changes to the NOFO in this revision. For more information on application requirements, eligibility and other program information, including a full list of current and past revisions, please refer to the NOFO on the Grant's dedicated web page by scanning the QR code or copying the web page address listed here or at the end of this presentation. The section and page number where each revision is located in the NOFO has been noted on each slide.

Revision 1 of the NOFO includes changes to the following grant program categories:

- Funding
- Application deadline
- Eligibility
- Recipient match
- Co-funded payments
- Application requirements
- EAP requirements
- Procurement
- Record keeping and monitoring
- Appeals.

Funding updates.

The state fiscal year 2025 Appropriations Act committed \$1.5 million for the creation of a cost sharing grant program to correct dam deficiencies identified by the South Carolina Department of Environmental Services, or SCDES, for High and Significant Hazard dams regulated under the Dams

and Reservoirs Safety Act. With the approval of the state fiscal year 2026 state budget in May of 2025 an additional 1.5 million for a total of \$3,000,000 has been appropriated for the creation of grant awards under this grant program.

Application deadline updates.

In order to give potential applicants sufficient time to review the changes in the revision 1 release of this NOFO and revise their applications accordingly, the previous application deadline of 5:00 PM on August 15th, 2025 has been extended to 5:00 PM on September 2nd, 2025.

Eligibility updates.

Dams that do not have a Poor or Unsatisfactory condition rating are now required to provide an engineer's report in order to be considered eligible.

Tax-exempt

nonprofit organizations are now exempt from demonstrating that they are not delinquent on any local, state or federal taxes, and the requirement for all dam owners to demonstrate support for the project is no longer applicable to dam removal projects.

Recipient match.

The recipient's cash match cannot come from another state source of funds.

Certain pre-award in-kind contributions are now eligible to count towards the recipient's non-state match requirement as long as all goods, materials and services are:

- Identified in advance
- Certified by the engineer as conforming with the approved plans and specifications and
- SCDES has approved and specifically incorporated them into the award agreement

To be eligible as the recipient's non state match the following services, activities or goods must have been acquired new and within one year prior to the execution of the award agreement

- Previously acquired goods and materials
- Donated goods and materials
- Previously acquired/performed professional services
- Donated services
- Forced account labor ie. labor under the direct employment of the recipient/dam owner.

Payment updates.

The simultaneous co-funded payment policy option is now available for recipients with a financial hardship determination. Under this payment option, the recipient submits documentation of approved, eligible, incurred costs and proof of payment of the recipient's share. SCDES will then pay the state share to the contractor or vendor directly.

Application requirement updates.

Construction projects must now maintain the same engineer for the duration of the project. In other words, construction projects must be overseen by the same engineer who designed the project. The Cost Estimate is now part of the detailed budget application requirement and is no longer a separate requirement. Please note that for construction projects, a cost estimate prepared and signed by an engineer is still required.

The IRS tax compliance report and SCDOR Certificate of Compliance are no longer required for tax-exempt nonprofit organizations. Additionally, an IRS determination letter and SCDOR Certificate of Existence are now required for tax exempt non-profit organizations.

A letter stating that all dam owners are in support of the project cosigned by all dam owners is no longer required for dam removal projects. An engineer's report is now required for dams without a Poor or Unsatisfactory condition rating.

EAP requirements.

The EAP requirement is no longer applicable to dam removal projects or projects that result in the exemption of a dam.

Procurement updates.

State agencies and political subdivisions are now required to follow their own procurement codes.

Procurement requirements for non-governmental entities have been added and the procurement thresholds have been updated for

- Goods and services
- Professional services
- Construction projects.

For procurements with a state share of less than \$10,000, no competition is required, and SCDES must determine if costs are fair and reasonable.

For procurements with a state share between \$10,000 and \$25,000, a minimum of three written quotes, or three documented attempts at solicitation for quotes is required.

Solicitation for quotes must be reviewed and pre-approved by SCDES and the quotes received must be in identical format. Quotes must be reviewed and pre approved by SCDES.

Please note that the recipient may select any of these quotes, but SCDES will only pay the lowest quoted price. For procurements with a state share of greater than \$25,000, they must be advertised at least once. The dam owner may select any of these quotes, but SCDES will only pay the lowest quoted price.

Procurement is now required for professional services, including engineering if the state share will exceed \$50,000. For a state share of less than \$50,000, only a single quote or proposal is required. For a state share of greater than \$50,000, qualifications based procurement is required and must be in accordance with South Carolina Code 1135-3220.

Procurement thresholds for construction projects.

For a state share of less than \$10,000 only a single quote from a single vendor is required. If the state shares between \$10,000 and \$100,000, a minimum of three written quotes or three documented attempts at solicitation for quotes from three different qualified sources is required. If the state share is greater than \$100,000, formal, competitive sealed bidding is required and must be in accordance with South Carolina Code 11-35-1520.

When competitive sealed bidding is required, SCDES will provide a web page dedicated to advertising bid opportunities. The use of this webpage is required for non-government entities. Government entities are not required to use this web page and can advertise directly on the South Carolina Business Opportunities SCBO.

For procurements that require competitive sealed bidding, SCDES will only agree to pay the relevant share of the lowest responsible bid as determined by the engineer who reviews and certifies the bids. For projects that require competitive sealed bidding, a bid bond of at least 5% is required. For all construction projects, a 100% payment bond and performance bond will be required.

For those who may not be familiar with the use of bonds, I'd like to provide a brief overview of the different types of bonds required for

construction projects.

- A bid bond is a type of guarantee often used in the contract bidding process to ensure that the winning bidder will honor their bid after all bids are opened. Bid bonds provide a way to discourage a bidder from backing out of their bid if it becomes apparent that they vastly underbid their competitors or if they do back out, that the revenue from the bid will help to offset the cost difference between the lowest and the next lowest bid. The client holds on to the bid bonds provided by all bidders until the winning bidder is under contract and provides the required performance and payment bonds, at which point the bid bonds are returned to all bidders.
- The performance bond is a type of surety bond that serves as a guarantee to a property owner, ensuring the completion of a construction project or the payment of compensation up to the bond's limit in case the contractor fails to fulfill the contract terms. This is also sometimes known as a completion bond. Once the terms of the contract have been fulfilled, the performance bond is released back to the contractor.
- A payment bond is a type of guarantee bond that ensures specific parties, such as suppliers, are paid should a contractor fail to fulfill a construction contract. Once all obligations under the bond have been met, the payment bond is released back to the contractor.

Now that we have a better understanding of the bonding requirements, let's get back to the revision 1 updates.

Insurance, standard of performance, and compliance with laws requirements for contractors and engineers have been added.

Contractors must maintain insurance for commercial general liability, automotive liability, and workers compensation. Insurance must be maintained throughout the entire contract period. If policies are claims-made, coverage must extend three years after the work is completed.

Certificates of insurance from companies authorized to do business in South Carolina are required before work begins. Contractors should be prepared to submit a summary of all insurance policies, including

- Policy types
- Coverage types.
- The Carrier's AM best rating,
- Whether the policy is written on occurrence or claims-made basis.

Engineers must carry insurance covering negligence, errors or omissions related to their services and work outcomes. Certificates of insurance from companies authorized to do business in South Carolina are required before work begins.

Engineers should be prepared to submit a summary of insurance policies, including

- Policy and coverage types
- Limits, sub-limits and deductibles
- The Carrier's AM best rating
- Whether each policy is claims-made or occurrence-based.

Contractors and engineers carrying out work pursuant to an award under this program will perform all services with at least the ordinary care and skill customary in the profession or trade and will comply with all professional rules of conduct applicable to the provision of services under the Award.

A non-indemnification clause has been added stating that any contracts resulting from an award from this program are between the contractor or engineer and the recipient and SCDES is not party to such contracts and bears no liability for any party's losses arising out of or relating in any way to the contract.

Any term or condition of contracts resulting from an award from this program or any related agreements is void to the extent that it requires SCDES to indemnify, hold harmless, defend, or pay attorney's fees to anyone for any reason, or would have the purpose or effect of increasing or expanding any liability of the state or its agencies or employees for any act, error, or omission, subject to the South Carolina Tort Claims Act, whether characterized as tort, contract, equitable indemnification, or any other theory or claim.

Contractors and engineers carrying out work pursuant to an award from this program shall comply with all applicable laws and regulations and the performance of the contract. Contractors carrying out work pursuant to an

award from this program will comply with South Carolina Code section 41-8-10 through 20 and will provide documentation upon request.

A change order is required for any increase in quoted prices, bid prices or quantities, regardless of the source of funds. Contingency amounts of 5% for non-construction and 15% for construction represent the maximum state contribution under this grant.

Cost overruns that exceed the state share plus contingency shall be borne by the recipient at 100%.

Record keeping and monitoring updates.

Recipients are required to make records available to SCDES for inspection and audit at any time.

Appeals updates.

Dispute procedures have been made available to any applicant that objects to any requirement, as outlined in the NOFO, amendment to the NOFO, or does not receive a distribution of funding as a recipient. Please see NOFO attachment F Procedures of Dispute Resolution.

This concludes our updates for revision 1 of the Dam Repair Assistance Grant Notice of Funding Opportunity. Again, the NOFO and related attachments, including a full list of the updates outlined in this video, can be found on the grant's dedicated web page by scanning the QR code to the right or at the web page address above the QR code. If you have any questions

Regarding this grant program or the updates outlined in this presentation, please e-mail us at Desresponse@des.sc.gov. Thank you!

● **Samuel B. Johnson** stopped transcription