

## OPWC Clean Ohio Advisories

### Access and Architectural Barriers Act

The [Architectural Barriers Act \(ABA\)](#) contains the most currently available information regarding the accessibility of trails. There is an important distinction between trails, shared use paths, and sidewalks, all of which have a different set of accessibility standards that apply. Trails are described in the ABA and shared use paths and sidewalks fall under a similar category but have a separate set of rules.

### Application Types

**Open Space** – Open space acquisition and/or related improvement of those open spaces, including the acquisition of easements. This includes acquisition of land or rights in land for parks, forests, wetlands, natural areas that protect an endangered plant or animal population, other natural areas, and connecting corridors for natural areas. Related improvement projects include projects for the construction or enhancement of facilities that are necessary to make the acquired open space area accessible and useable by the public.

**Riparian Corridor** – Protection and enhancement of riparian corridors or watersheds, including the protection of streams, rivers, lakes, and other bodies of water. Projects may include reforestation of land or planting of vegetation for filtration, and fee simple acquisition or acquisition of easements for providing access, or for protection and enhancement.

### Application / Project Location

Application must be made to the NRAC where the project is located.

### Land Acquisition Disbursement

As per the Project Agreement funding recipients have two options for payment for property. Applicants may either choose to have funds released to a title agency prior to closing (pre-closing option) or be reimbursed after closing. However, neither option can take place without the submission and approval of the Request to Proceed, and the release of the Notice to Proceed.

- **Pre-Closing Option:** The Disbursement Request must indicate the name of the Title Agency and be provided at least 30 days prior to closing. Funds will then be released to the escrow account to be held for closing. Any interest that accrues is to be used for settlement costs or, if in excess, will be applied to the cost of the project. If the closing is not held within 30 days of the disbursement, then the OPWC must be contacted immediately. Within 60 days of closing, the applicant, or the Title Agent on behalf of the applicant, must provide to the OPWC copies of the recorded deed/conveyance instrument, recorded deed restrictions, and executed settlement statement.
- **Reimbursement Option:** After a Request to Proceed has been approved and a Notice to Proceed has been issued, the applicant may submit a Disbursement Request asking to be reimbursed for acquisition and other eligible costs. The submission should include copies of the recorded deed/conveyance instrument, recorded deed restrictions, and executed settlement statement.

### Life Estate

Life estates are permitted in which the original landowner (seller) has occupancy rights limited to their lifetime (referred to as the “life tenant”).

### **Meeting Attendance**

Any District committee member who fails to attend at least three-fifths of meetings for any two-year period forfeits their position on the committee. It is a committee's responsibility to track attendance via meeting minutes and inform any member of an impending forfeiture. ([R.C. 3.17](#))

### **NRAC Administrative Costs**

NRACs may choose to bill against their program fund allocation for costs incurred in administering the Clean Ohio Conservation program. Each NRAC may receive up to \$15,000 per program year as provided for an act of the General Assembly. Reimbursement is permitted for those costs directly incurred because of the need for labor, materials, supplies, equipment, travel, and support services to perform the NRAC's statutory requirements. The NRAC must approve participation in this program. Each NRAC making this election must prepare an annual work plan and budget detailing the administrative costs. Approval by the NRAC must be documented in its meeting minutes and supplied with this material.

### **NRAC Nominations**

A Natural Resources Assistance Council is established in each of the 19 districts per [ORC 164.21](#). Each NRAC consists of 11 members of which one must be a member of the appointing integrating committee and one must represent a soil and water conservation district located within the geographical jurisdiction of the NRAC. Members' terms of office are three years, with each term ending on the same day of the same month as did the term before it, except that the term may not extend beyond their terms as an elected or appointed official. Should a member no longer be employed by the organization that nominated them, they must resign from the NRAC.

Committee rosters are maintained in WorksWise, OPWC's cloud portal.

### **Open Meeting Requirements**

District Public Works Integrating Committees and their subcommittees, including Small Government subcommittees and County subcommittees, are public bodies and therefore subject to Open Meeting laws as defined by R.C. 121.22 (as part of Ohio's "Sunshine Laws"). [Ohio Attorney General, Sunshine Laws](#)

### **Post-Acquisition Activity / Site Improvements**

Proposed site improvements may either be included in the application for property acquisition or in a future application following property acquisition.

### **Prevailing Wage and Other Bidding Requirements**

The OPWC requires that all state and local bidding laws and requirements be followed including the payment of state prevailing wages. If the project is jointly funded with federal money, federal laws may override state requirements, so it is imperative for the project owner to discuss with the federal funding source. The OPWC has posted bid proposal notes which contain the necessary state requirements.

Questions should be directed to the local subdivision's legal counsel.

### **Procurement of Professional Design Services**

Ohio law, [ORC Sections 153.65 to 153.73](#), requires all public authorities to use a qualifications-based selection process in choosing professional design services (i.e., architect, landscape architect, professional engineer, and surveyor) or design-build services.

## **Recreational Trails**

Applications solely for the purpose of a recreational trail as a standalone project are not eligible under the Clean Ohio Green Space Conservation Program. Trails can be included as an access improvement either with an application for green space acquisition or as an improvement only application post-acquisition.

[Under ORC 164.25, the director of the OPWC is authorized to approve applications for Clean Ohio grants in part for open space acquisition and related improvement projects as described in ORC 164.22. The director of the Ohio Department of Natural Resources has statutory authority under ORC 1519.05 to administer the Clean Ohio Trail Fund for the purposes of purchasing land for recreational trails and for the construction of such trails. ORC 164.22 provides for facilities necessary to make an open space area accessible and usable by the public but the term “trail” does not specifically appear.]

## **Water Quality**

Clean Ohio funds may be used for and are encouraged for activities that improve water quality but under no circumstances shall funds be used for any activity which would result in degradation. Approved activities include wetland creation and restoration projects, undertaking work that gently reverses the prior destructive activity to restore hydrology to its original (pre-colonial) condition. Restoration includes re-establishing a former wetland and rehabilitating a degraded wetland by repairing its wetland functions and characteristics. Wetland restoration techniques include, but are not limited to, management of invasive plant species; tile and culvert removal; installation of berms or dikes; backfill ditches, and establishment of stream meanders. Streambank restoration projects must contribute to water quality; therefore, rip rap, railroad ties and concrete, which may aggravate the problem, may not be acceptable solutions depending on the health and condition of the riparian ecosystem. Vegetation is the best resource for protecting streambanks combined with, but not limited to, the creation of pools, riffles, meanders, and bars to absorb the energy of the flow, and establishing and/or maintaining adequate riparian corridors. In addition, consideration should be made to daylight and restore buried streams and springs as the buried condition increases nutrient pollution, degrades habitat, and increases downstream flooding. It is critical to hire companies and individuals who specialize in water quality restoration services to provide environmentally sensitive solutions. In addition, the Ohio Environmental Protection Agency, Ohio Department of Natural Resources, and Army Corp of Engineers are valuable resources.