

Chapter 103E Drainage Authority Participation in the AgBMP Loan Program

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AgBMP Loan Program
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Drainage authorities can participate in the AgBMP Loan Program in one or both of the following roles.

- **Technical Delegate:** Organizations responsible to approve the environmental benefits and provide technical certification of an eligible project and practices.
- **Local Lender:** Organization that evaluates the creditworthiness of the project and offers loans to finance projects. Local governments that serve as a lender typically have tax assessment authority for eligible projects and practices.

AgBMP Loans can be issued to benefited landowners in a Chapter 103E drainage system (*borrowers*) for eligible water quality practices connected with the drainage system, including buffer strips and alternative riparian water quality practices.

The AgBMP Loan Program was created in 1995 to provide a reliable and sustainable funding source to local governments for implementation of nonpoint source practices that protect water quality. Under this program, counties or soil and water conservation districts provide local administration of the program to coordinate funds throughout their jurisdiction with other local water quality management partners, programs and funding sources to address action priorities in local water management plans and other applicable plans for rural lands.

The program is generally limited to a single local administrator that coordinates and compiles funding requests, submits reports, monitors budgets, and delegates authority and responsibilities. All counties, except Ramsey, have a local government unit that fulfills this role and has AgBMP funds available to them. No other local administrators will be assigned. Drainage authorities would need to coordinate with the existing local administrator to request and use funds.

Technical Delegate

The local administrators for the AgBMP Loan Program are not experts for all types of eligible practices, so they often delegate technical authority and oversight for designated funds to other responsible organizations. For example, in Lincoln County, the Lincoln Soil & Water Conservation District is the local administrator. They are responsible to oversee and report on \$1.3 million of AgBMP

Loans. However, their expertise is in traditional farm and conservation practices, so to address septic system projects, they coordinate with the Lincoln County Environmental Office, annually earmarking about \$100K for septic systems. The SWCD delegates these funds for septic system and technical authority to the county's Environmental Office for oversight.

To become a *technical delegate*, a drainage authority would coordinate with the local administrator of the program. This coordination might result in a letter of understanding including:

- Eligible practices to be implemented.
- Earmarking funds for the project.
- Developing an implementation schedule.
- Delegating technical authority for eligible practices.



Figure 1. Example of a buffered drainage ditch.

Local Lender

The AgBMP Loan Program can work with organizations that have the capacity to issue loans and the financial resources to guarantee repayment of the funds back to the AgBMP Loan Program. This includes most types of conventional lending institutions and many local government units with taxing authority, including drainage authorities.

To become a participating *local lender*, the drainage authority would need to execute a lender participation agreement with the AgBMP Program. The primary provisions of the agreement are the drainage authority:

- Guarantees repayment of all funds provided by the AgBMP Loan Program.
- Provides acceptable security to guarantee repayment. This typically would be a resolution instructing that a special assessment would be placed on the benefiting properties.
- Verifies that they have proper procedures in place to certify the special assessments.

The AgBMP Loan Program does not dictate internal accounting procedures; however, all lenders must be able to complete an annual verification of account balance report. For their services, *local lenders* may charge up to a 3% interest on loans.

Borrowers

Benefited landowners in a Chapter 103E drainage system, including farmers or rural landowners, can be *borrowers*. For example, the costs for ditch buffer strips, alternative riparian water quality practices, and associated easements implemented by a drainage system could be financed by AgBMP Loans through the drainage authority acting as a *technical delegate* and a *local lender*. Each landowner participating as a *borrower* would sign a simple loan agreement with the drainage authority acting as *lender* for a loan period up to 10 years. The drainage authority would collect repayments through drainage system assessments. AgBMP Loans are limited to \$200,000 per *borrower*.

Example Situation

To initiate a project, the drainage authority would meet with the local administrator (<http://gis.mda.state.mn.us/agbmploan/>) of the AgBMP Loan Program, in this example, a SWCD. The drainage authority would define the proposed projects, such as ditch buffer strips, and/or alternative riparian water quality practices. The SWCD and drainage authority would develop a budget and cash flow projections, such as \$500K the first year and \$350K the second. The SWCD would review current resources, make budget adjustments, and request additional funds so that loans are available at the appropriate time. The SWCD could delegate technical authority for buffers and other agreed upon practices to the drainage authority and its technical staff. The SWCD and drainage authority could confirm the delegation agreement in a simple letter of understanding.

The drainage authority acting as *technical delegate* would work with landowners to design, install, and approve practices. Projects could be installed landowner by landowner or simultaneously under a single construction contract with the drainage authority acting as a general contractor for the landowners.

The drainage authority acting as *local lender* would prepare and coordinate landowner documentation of their financial obligation (standard loan application form). This typically would include:

- The amount of the loan
- The terms of the loan, including interest rate and duration
- The type of project being installed and where
- Credit worthiness review
- Agreement to a special assessment as security and waiver of a right to contest the assessment

As the costs are incurred, the drainage authority acting as *local lender*, would forward to the AgBMP Program a request to disburse funds along with sufficient documents to show that the costs have been incurred. The Minnesota Department of Agriculture would disburse the funds to the drainage authority and they would close the loans with landowners following their internal procedures. The drainage authority acting as *local lender* would begin to receive invoices from the AgBMP Loan Program about 6 months AFTER the first payment is received from the *borrowers* through their special assessment payments. The drainage authority acting as *local lender* may retain interest and fees for their use and it is recommended that a portion of those fees be held in a loan loss reserve account to insure available cash reserves if delinquencies occur.

The AgBMP Loan Program is only a financing tool, it has no regulatory authority, but is often used as a financial incentive. All procedures, evaluations, designs, and processes are the responsibility of the local administrator and *technical delegates*. The perfection of the special assessment, closing of the financial transactions, collection of landowner payments, and repayment to the AgBMP Loan Program is the responsibility of the *local lenders*. This program works best with regular communication between all parties.

Available Funding

The AgBMP Loan Program uses a revolving loan structure where past loan repayments are used to finance future loans. It has \$75 million in the corpus of its account. At full capacity, with this level of funding, it would generate repayment revenue of \$11 million in perpetuity which is to be used to fund any eligible water quality project. The local administrator must prioritize all potential projects and earmark available funds within the limits of its account and repayment revenues. Because of decreased loan demand after the economic decline following 2007, the program currently has the capacity to issue about \$30 million in loans. However, these funds are distributed across all counties in Minnesota and may not align with specific projects proposed by local drainage authorities. The AgBMP Loan Program has the flexibility to adjust budgets such that several buffer projects with costs of less than \$500K could be funded with minimal delay at this time. Projects between \$500K and \$1 million could take more than one year to aggregate sufficient funds into the appropriate local account. Projects in excess of \$1 million may be more suitable to other financing options, such as local bonding authority. With foreknowledge of developing projects, the AgBMP Loan Program could also request additional appropriations to the account corpus to boost loan capacity to meet anticipated needs.