

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER g: GRANTS

PART 3025
OPEN SPACE LANDS ACQUISITION
AND DEVELOPMENT GRANT PROGRAM

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AUTHORITY: Implementing and authorized by the Open Space Lands Acquisition and Development Act [525 ILCS 35].

SOURCE: Emergency amendments adopted at 9 Ill. Reg. 13113, effective August 7, 1985, for a maximum of 150 days; adopted at 9 Ill. Reg. 18486, effective November 20, 1985; amended at 10 Ill. Reg. 13253, effective July 30, 1986; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 22 Ill. Reg. 14817, effective August 3, 1998; amended at 23 Ill. Reg. 8398, effective July 7, 1999; amended at 25 Ill. Reg. 3671, effective February 26, 2001; amended at 28 Ill. Reg. 10638, effective July 13, 2004; amended at 31 Ill. Reg. 9224, effective June 18, 2007; emergency amendment at 38 Ill. Reg. 16400, effective July 16, 2014, for a maximum of 150 days; emergency expired December 12, 2014; amended at 39 Ill. Reg. 1145, effective December 31, 2014; emergency amendment at 46 Ill. Reg. _____, effective June 3, 2022, for a maximum of 150 days.

Section 3025.10 Program Objective

The Open Space Lands Acquisition and Development Act (OSLAD) provides for grants to be disbursed by the Department of Natural Resources (Department) to eligible local governments for the purpose of acquiring, developing and/or rehabilitating lands for public outdoor recreation purposes.

Section 3025.25 Eligibility Requirements

Agencies eligible for assistance under the OSLAD grant program are any unit of local government with statutory authority to acquire, develop and maintain lands for public outdoor recreation purposes. This includes, but is not limited to, counties, townships, municipalities, park districts, conservation districts and forest preserve districts.

(Source: Added at 22 Ill. Reg. 14817, effective August 3, 1998)

Section 3025.30 Assistance Formula

- a) The OSLAD program shall operate on a matching basis providing up to a maximum of 50% funding assistance on total approved project costs. However, a local government defined as "distressed" under the criteria established in this Part shall be eligible for assistance of up to 90%, provided that no more than 10% of the annual OSLAD appropriation is allocated as grants to distressed local governments.
- b) Except for jurisdictions having populations exceeding 2 million residents, maximum grant awards to any one project in a given year are currently limited to \$750,000 for approved land acquisition projects and \$400,000 for approved development (construction) projects. Counties serving a population exceeding 2 million residents are eligible for up to \$1.15 million in annual OSLAD funding for approved outdoor recreation acquisition and/or development projects. Municipalities with a population exceeding 2 million are eligible for up to \$2.3 million in annual OSLAD funding for approved projects. However, no more than 10% of the annual OSLAD appropriation can be allocated to any one project.

(Source: Amended at 39 Ill. Reg. 1145, effective December 31, 2014)

Section 3025.32 Funding Distribution and Handling of Awards

- a) A minimum of 50% of an OSLAD grant award will be paid in advance to the grantee after the grant agreement is fully executed in accordance with the policies

and procedures of the Department's Fiscal Office and the Illinois Comptroller's Office.

- b) The remainder of the grant award will be paid to the grantee as reimbursements for matching-fund expenditures made by the grantee. Reimbursements will be made on a quarterly basis, subject to the grantee's submission and certification of eligible costs incurred, along with any documentation required by the Department. Expenditure of State funds advanced to the grantee cannot be claimed for reimbursement payments.
- c) Grant funds paid in advance must be kept in a separate interest bearing account with a federally or Illinois regulated financial institution that is insured by the Federal Deposit Insurance Corporation (FDIC), and maintained therein until used in the execution of the approved project. All interest earned on grant funds held by a grantee shall become part of the grant principal when earned, and be used for and in the same manner as the principal to fulfill the purposes and objectives of the grant.
- d) Interest earned on the advanced payment funds must be accounted for in the grantee's quarterly and final Status Reports. At the completion of the project, remaining earned interest not expended on the project must be returned to the Department in accordance with the directions provided by the Department in the project agreement.
- e) If funds are not held in an interest bearing account, the grantee will be responsible for the payment of interest to the Department at a rate equal to twelve percent (12%) per annum.
- f) Grant funds received by the grantee as reimbursement of eligible costs expended from grantee matching funds may be kept in a non-interest bearing account at the grantee's discretion. The Department will not consider reimbursed funds, or any interest earned on reimbursed funds, as part of the grant principal.
- g) The grant will be administered in accordance with the time limit on expenditure of grant funds under the Illinois Grant Funds Recovery Act [30 ILCS 705/5].
- h) Costs incurred prior to the beginning date of the grant award, without prior written permission of the Department, will be disallowed.

(Source: Added at 39 Ill. Reg. 1145, effective December 31, 2014)

Section 3025.34 Business Enterprise Compliance

- a) Pursuant to Section 45 of the State Finance Act [30 ILCS 105/45], for OSLAD grants for which \$250,000 or more is advanced to a grantee for capital construction costs or professional services, the grantee must provide written certification that the grantee is in compliance with the business enterprise program (BEP) practices for minority-owned businesses, female-owned businesses, and businesses owned by persons with disabilities (see the Business Enterprise for Minorities, Females, and Persons with Disabilities Act [30 ILCS 575] and the equal employment practices of Section 2-105 of the Illinois Human Rights Act [775 ILCS 5/2-105]).
- b) Following application submittal and review, the Department will determine which grantees are required to develop BEP Plan documentation, and will notify them accordingly. Instructions and required Utilization Plan (UP) forms will be provided by the Department to the selected grantees for preparation, certification and submittal as attachments to the grant agreement. The Department will not execute the grant agreement until this provision is met by the grantee.

(Source: Added at 39 Ill. Reg. 1145, effective December 31, 2014)

Section 3025.36 Distressed Communities Definition and Criteria

Communities that are economically distressed or physically distressed, as defined in this Section, may qualify for increased grant assistance under this program.

- a) An economically distressed community is an eligible local unit of government located within a Standard Metropolitan Statistical Area (SMSA) with a per capita equalized assessed valuation (EAV) less than 60% of the State average and more than 15% of the population below the national poverty level and not containing a major University in the community and has received less than the determined fair share of OSLAD assistance; or an eligible unit of local government located outside an SMSA with an EAV less than 50% of the State average and more than 20% of its population below the poverty level and not containing a major University in the community and has received less than the determined fair share of OSLAD assistance.
- b) The Department will determine which communities are considered economically distressed based on calculations using the most current published Illinois Census data and Illinois Department of Revenue information. The Department reserves the final determination on whether an applicant meets the definition of an economically distressed community. For a local political subdivision to be considered eligible under a community's distressed qualification, that subdivision must lie entirely within the boundaries of the distressed community.

- c) A physically distressed community is an eligible local unit of government that has encountered catastrophic events such as floods or tornados. The physically distressed status will be allowed one time within a 3-year period, the community must be in a county declared a "disaster area" by the Governor or President of the United States, and the disaster must have directly affected the community applying for the grant. The Department may require a community seeking status as physically distressed to provide verification of disaster impacts and a public assistance declaration from the Illinois Emergency Management Agency (IEMA) and/or the Federal Emergency Management Agency (FEMA) before allowing eligibility under this provision. The Department reserves the final determination as to whether an applicant meets the definition of a physically distressed community. For a local political subdivision to be considered eligible under a community's distressed qualification, that subdivision must lie entirely within the boundaries of the distressed community.

(Source: Added at 39 Ill. Reg. 1145, effective December 31, 2014)

Section 3025.40 General Procedures for Grant Applications and Awards

- a) Grant applications for assistance under this program must be submitted in accordance with a schedule publicly announced annually by the Department. Failure to submit a completed application to the Department by the specified application deadline date will result in project rejection for that particular year.
- b) Necessary application material and instructions are available through the Department. Awarding of grants will be on a competitive basis (Section 3025.60) and will be made under authority of the Director of the Department of Natural Resources.
- c) Project grant applications consist of the following basic components, at a minimum:
- 1) applicant's name, address and telephone number;
 - 2) information on the supply of existing public park acreage and recreation facilities located within the project sponsor's (applicant) jurisdiction;
 - 3) an itemized proposed project cost estimate;
 - 4) project narrative statement describing the project concept, location, need for and objectives of the project, anticipated benefits, proposed usages and method of financing or accomplishing the project;

- 5) project location map, site plat map and proposed development plan;
 - 6) project environmental evaluation;
 - 7) proof of land ownership or usage rights for proposed development (construction) projects or commitment of title insurance for project property planned for acquisition; and
 - 8) a signed document by the applicant verifying the applicant has the resources to initially finance and subsequently manage the project area and will comply with program regulations and indemnify the Department from any liability relative to the project.
- d) A program information packet may be obtained from the Division of Grant Administration, Illinois Department of Natural Resources, One Natural Resources Way, Springfield IL 62702-1271, telephone 217/782-7481.

(Source: Added at 28 Ill. Reg. 10638, effective July 13, 2004)

Section 3025.50 Eligible Project Costs

- a) Grant assistance may be obtained for the following items:
 - 1) Land acquisition costs (fee simple title or permanent easement, etc.) for public park and/or conservation purposes, including associated eligible appraisal costs. Eligible projects include, but are not limited to, acquisition of land for the following:
 - A) general park purposes such as community and neighborhood parks and playfields;
 - B) frontage on public surface waters for recreation use;
 - C) open space/conservation purposes to protect floodplains, wetlands, natural areas, wildlife habitat and unique geologic or biologic features; and
 - D) additions to such areas.
 - 2) Outdoor recreation area development costs (initial facility construction and/or rehabilitation) including, but not necessarily limited to, playfields, playcourts, playground equipment, picnic facilities, trails, camping areas, outdoor water sport facilities, nature study areas, and winter sport facilities

as well as associated support facilities such as parking areas, access roads, shelters, interpretive centers, restrooms, safety lighting, potable water supply and other directly related support facilities. Professional design services deemed necessary for proper design and construction of the project are also eligible.

- b) Acquisition of land from another public agency (excluding school districts) is not eligible for OSLAD grant assistance.
- c) Project costs for which assistance is sought cannot be incurred by the project applicant prior to grant approval notification or Department authorization. Costs incurred prior to Department approval are ineligible for grant assistance. For acquisition projects, costs are considered incurred when property deed, lease or other conveyance is accepted by the local sponsor or first payment is made on the project property or to an escrow account for the property. In addition, no purchase agreement, option, etc., or price negotiations shall be entered into without Department approval. Development project costs are considered incurred on the date construction contracts are signed or actual physical work begins on the project site or project materials are delivered.
- d) No grant shall be awarded for the acquisition or development of land that will not be available for general public outdoor recreation use.

(Source: Amended at 39 Ill. Reg. 1145, effective December 31, 2014)

Section 3025.60 Project Evaluation Priorities EMERGENCY

The following factors are used by the Department in evaluating and recommending local project applications for funding assistance consideration (see Appendix A):

- a) **Statewide Outdoor Recreation Priorities – 60%**
 - 1) **Department Statewide Priorities – 35%**

Projects are evaluated in terms of their ability to address major outdoor recreation and conservation issues identified by the Department in its "Statewide Outdoor Recreation Plan". These include, but are not limited to, natural area and wetland preservation, protection of endangered/threatened species and critical habitat resources, conservation education, creation of greenways and long distance trail corridors, water-based recreation, recreation for disadvantaged populations and adaptive re-use/redevelopment of urban lands, including brownfields. These priorities are listed in this Section and also available in the Department's

OSLAD Local Participation Grant Manual (2007 ed.; Illinois Department of Natural Resources Division of Grant Administration, One Natural Resources Way, Springfield IL 62702-1271).

- 2) Statewide Local Needs Assessment – 25%
Determination of local need is based on a comparison of:
 - A) existing local supply of recreation facilities per capita to the statewide median for those facilities as identified in the Department's "Statewide Outdoor Recreation Plan"; and
 - B) existing supply and distribution of open space and park land acreage, measured in acres/capita, to the statewide median and/or to locally adopted standards. Recreation needs based on project service area are also given consideration.

- b) Project concept and site characteristics – 25%
The project proposal is evaluated in terms of the site's physical and aesthetic qualities, including accessibility; soil, topographic and hydrologic characteristics; site vegetation; compatibility with adjacent land uses; environmental intrusion on the site; impacts to cultural and natural resources; and the overall recreational diversity provided by the project.

- c) Local Planning – 10%
The major consideration under this criteria is public support and input into the project plan and existence of a comprehensive local recreation and/or open space plan identifying the proposed project as a priority. Consideration is also given for unique recreation opportunities not specifically identified in a local plan but having documented widespread public support.

- d) Other Considerations – 5%
Relevant factors considered in evaluating the overall merits of a project and need for funding include projects located in inner-urban areas; proposing initial site development; involving private donations; representing economic revitalization efforts; or from applicants not previously benefitting from OSLAD assistance.

- e) Penalty Factors – (deduct up to 15%)
Consideration is given to the applicant's past performance in completing OSLAD or other Department grant projects or unresolved project violations, ability to properly maintain the project site, and failure to cooperate with the Department in completing the "Illinois Recreation Facilities Inventory" (IRFI).

- f) Project Application Review and Grant Award:

Department grant staff, in consultation with executive and appropriate resource staff, reviews all applications in accordance with the established evaluation criteria. Recommendations from the Department grant staff are then submitted to the Director for OSLAD grant approval.

(Source: Emergency Amendment at 46 Ill. Reg. _____, effective June 3, 2022, for a maximum of 150 days)

Section 3025.70 Program Compliance Requirements

- a) Any property acquired or developed through assistance from the Illinois OSLAD grant program must be open to the public for outdoor recreation use as set forth in this Part without regard to race or color, creed, national origin, sex or disability nor on the basis of residence except to the extent that reasonable differences in user fees may be imposed amounting to no more than double the fees charged to residents. Land acquired with funding assistance from the OSLAD program shall be operated and maintained in perpetuity for public outdoor recreation use. Projects receiving development grant assistance only shall be bound by the terms of this Part for the period of time specified below for the total amount of OSLAD funds expended on the project:

<u>Total Grant Expenditure</u>	<u>Time Period after Final Grant Payment</u>
\$0-\$50,000	6 years
for every \$25,000 increment over \$50,000	add 1 year

Property acquired or developed with OSLAD funds may not be converted to a use other than public outdoor recreation use as provided in this Part without prior Department approval. Approval for property conversion will be granted only if the project sponsor substitutes replacement property of at least equal fair market value and comparable outdoor recreation usefulness, quality and location.

- b) For projects receiving acquisition assistance, an appraisal must be provided by the sponsoring agency and submitted to the Department for review and certification to establish the property's fair market value. The appraisal must be completed to Department specifications.
- c) For projects receiving development assistance, the sponsoring agency must possess either fee simple title or other means of legal control and tenure (easement, lease, etc.) over the property being improved for a period of time commensurate with the program amortization schedule shown in subsection (a), unless otherwise approved by the Department. The Department will consider, on

a case-by-case basis, lease arrangements for shorter periods when State statute prohibits a unit of local government from entering into such a long-term agreement, or other circumstances beyond the control of the local unit of government prohibit such arrangements. The sponsor must also adhere to applicable local bidding and procurement requirements and make available to the Department, upon request, all working plans, specifications, contract documents and cost estimates for review prior to commencing work. The format for any advertisement or prospectus soliciting and inviting bids, indicating dates of same, must also be presented, upon request, to the Department for review prior to publication.

- d) The local project sponsor is required to enter into an agreement with the Department for an amount agreed upon as necessary to complete the approved project, specifying the related grant assistance amount and program compliance regulations.
- e) Upon project completion, the project sponsor must submit a certified project billing request (expenditure statement) listing/verifying all funds expended on the project for which grant assistance is sought, as well as required billing documentation, as follows:
 - 1) Acquisition Project: Proof of good faith negotiations or fair market value offer to land seller, copy of property deed and title insurance policy (Judgement Order in case of condemnation) showing ownership transferred to the local project sponsor, and copies of canceled checks showing proof of payment to seller.
 - 2) Development Projects: Copy of construction As-Built drawings (no larger than 11" x 17") and verification of actual project costs.
- f) All financial records on approved projects must be maintained and retained, in accordance with State laws, by the project sponsor for possible State audit after final reimbursement payment is made by the Department.
- g) The sponsoring agency must permanently post an OSLAD grant acknowledgment sign at the project site. The necessary sign will be provided by the Department or specifications for its construction will be furnished to the local project sponsor, if requested.
- h) Projects assisted with OSLAD grant funds shall be implemented in accordance with all applicable federal, State and local laws, ordinances and regulations relating to public agency expenditure of funds for public works projects.

- i) It shall be understood by the project sponsor that a Department representative may make periodic inspections of the project as construction progresses and that a final inspection and acceptance of the completed project must be made by a representative or agent of the Department prior to final payment of grant reimbursement to the local sponsoring agency.
- j) The sponsoring agency shall indemnify, protect, defend and hold harmless the Department from any and all liability, costs, damages, expenses, or claims thereof arising under, through or by virtue of the construction, operation and maintenance of OSLAD-assisted facilities.
- k) In connection with and prior to the construction, and the subsequent operation and maintenance, of OSLAD-assisted facilities, it shall be understood that the project sponsor is responsible for obtaining any and all necessary construction permits, licenses or forms of consent, as required by law. Failure to obtain any required permits may jeopardize approved grant funding.
- l) The sponsoring agency must comply with and abide by the following operation and maintenance provisions:
 - 1) All lands and facilities assisted with OSLAD funds shall be continuously operated and maintained by the sponsoring agency in a safe and attractive manner at no cost to the Department and be operated and utilized in such a manner as to maximize the intended benefits to and for the public.
 - 2) The Department shall have access to OSLAD-assisted facilities at all times for inspection purposes to ensure the project sponsor's continued compliance with this Part.
 - 3) The sponsoring agency may enter into a contract or agreement with responsible concessionaires to operate and/or construct facilities, for dispersing food to the public and/or any other services as may be desired by the public and the sponsoring agency for enjoyable and convenient use of the OSLAD-assisted site. Any and all concession revenue in excess of the costs of operation and maintenance of the OSLAD lands and/or facilities shall be used for the improvement of said lands or facilities or similar nearby public facilities. All sub-leases or licenses entered into by the sponsoring agency with third persons relating to accommodations or concessions to be provided for or at the OSLAD facility for benefit of the public shall be submitted to the Department, upon request, for its approval prior to the sub-lease or license being entered into or granted by the sponsoring agency.

- m) Conflict of Interests
- 1) No official or employee of the local political subdivision who is authorized in his official capacity to negotiate, make, accept, or approve or to take part in such decisions regarding a contract or subcontract in connection with an approved OSLAD grant project shall have any financial or other personal interest in any such contract or subcontract.
 - 2) No person performing services for the local political subdivision in connection with an approved OSLAD grant project shall have a financial or other personal interest other than his employment or retention by that local political subdivision in any contract or subcontract in connection with an approved OSLAD grant project. No officer or employee of such person retained by the local political subdivision shall have any financial or other personal interest in any real property acquired under an approved OSLAD grant project unless such interest is openly disclosed upon the public records of the local political subdivision and such officer, employee or person has not participated in the acquisition for or on behalf of the local political subdivision.
- n) The project sponsor certifies that it provides a drug free workplace and related employee assistance as defined and required by the Drug Free Workplace Act [30 ILCS 105/16].
- o) Pursuant to 775 ILCS 5/2-105(A)(4), the project sponsor certifies that it has a written sexual harassment policy that includes, at a minimum, the following information:
- 1) the illegality of sexual harassment;
 - 2) the definition of sexual harassment under State law;
 - 3) a description of sexual harassment utilizing examples;
 - 4) the contractor's internal complaint process, including penalties;
 - 5) the legal recourse, investigation and complaint process available through the Illinois Department of Human Rights and the Human Rights Commission and directions on how to contact both; and
 - 6) protection against retaliation as provided by Section 6-101 of the Illinois Human Rights Act [775 ILCS 5/6-101]. A copy of the policy shall be provided to the Department of Human Rights upon request.

- p) Program Violations and Project Termination
 - 1) The State will unilaterally rescind project agreements at any time prior to the commencement of the project in the event that State funds are not appropriated for the grant program. After project commencement, agreements may be rescinded, modified or amended only by mutual agreement with the local political subdivision. A project shall be deemed to be commenced when the local political subdivision makes any expenditure or incurs any obligation, exclusive of architectural and engineering fees, with respect to the project.
 - 2) Failure by the local sponsoring agency to comply with any of the program terms listed in this Section shall be cause for the suspension of all grant assistance obligations, unless, in the judgment of the Department, such failure was due to no fault of the local sponsoring agency (e.g., statutory changes, acts of God).

(Source: Amended at 39 Ill. Reg. 1145, effective December 31, 2014)

Section 3025.80 Program Information/Contact

For information on the OSLAD Grant Program, contact:

Illinois Department of Natural Resources
Division of Grant Administration
One Natural Resources Way
Springfield IL 62702-1271
Telephone: 217/782-7481
FAX: 217/782-9599

(Source: Amended at 28 Ill. Reg. 10638, effective July 13, 2004)

Section 3025.APPENDIX A Project Evaluation Criteria

STATEWIDE RECREATION PRIORITIES (35%)

Preservation/management of natural areas, wetlands, endangered and threatened species sites; preservation/improvement of wildlife habitat areas; conservation education; water-based recreation opportunities; preservation of greenways and long-distance trail corridors; intergovernmental cooperation benefitting recreation; and improvement of recreation opportunities for disadvantaged populations.

STATEWIDE LOCAL RECREATION NEEDS (25%)

Facility need based on comparison of existing local supply to statewide median.

Development Project (1 - 10 points)
(some, majority or all facilities of high need)

Acquisition Project (0 - 5 points)
(same factors as for development)

Existing supply of available local recreation acreage compared to statewide median for local agencies or locally identified standard per local plan. An evaluation of the types of park acreage available (park system balance) between community parks and neighborhood (walk to) parks is evaluated based on the guideline that approximately 80% of local acreage should be devoted to community park facilities and 20% to neighborhood (walk to) parks.

Development Projects (0 - 5 points)
Acquisition Projects (0 - 10 points)
Specific Project "Service Area" (0 - 10 points)

Neighborhood Park
(highest priority: 1 mile service radius)
(2nd priority: ½ mile service radius)

Community Park
(highest priority: 1st such park within 4 mile radius)
(2nd priority: 1st park within 2 mile radius)

County/Regional Park (multi-community service area)

(Note: physical barriers restricting travel are taken into consideration.)

Exceptions within this category:

(project prevents loss of existing facility)

(project represents unique opportunity with public support or protects important natural areas)

PROJECT JUSTIFIED BY LOCAL PLAN (10%)

Identified as priority in local plan

Development project (0 - 5 points)

Acquisition project (0 - 8 points)

Evidence of "direct" public involvement in project/plan

Development project (0 - 5 points)

Acquisition project (0 - 2 points)

PROJECT CONCEPT AND ENVIRONMENTAL SUITABILITY (25%)

Site Suitability (0 - 13 points)

access to site (vehicular/pedestrian, parking, etc.)

environmental factors and impacts

adjacent land use compatibility

safety issues

Site Design/Concept (0 - 12 points)

recreational diversity including multi-season use

adequate support facilities

diversity of age groups benefiting

site aesthetics and design

site impacts on adjacent land uses

facility cost/benefit assessment

OTHER CONSIDERATIONS (5%)

land or cash donation or volunteer involvement

initial site development

high-density urban population areas

project part of community economic redevelopment initiative

grant "fair share" distribution factor

project by newly created agency

PROJECT PENALTIES

poor past grant performance or "unresolved" project violation
evidence of poor facility maintenance by agency
failure to cooperate with Department in supplying "Illinois Recreation Facilities
Inventory" data
necessary application "follow-up" response time unsatisfactory

(Source: Amended at 31 Ill. Reg. 9215, effective June 18, 2007)