

Taos Soil & Water Conservation District Group Acequia Program Information

Taos SWCD's (the "District") Group Acequia Program can be used for technical/cost-share assistance towards natural resource projects that positively impact irrigated private land within the District's service area. The District's service area includes all private land located in Taos County, excluding lands located within the Town of Taos. For Group Acequia Program projects, the District does consider projects that involve the construction or rehabilitation of structures located on public land. Normally, the District does not cost-share on other projects located within the Town of Taos, or on public or tribal lands, though it does occasionally provide technical assistance if it is determined by the District that the technical assistance will impact private land located within the District's service area.

This program is intended for legally recognized acequia groups. Groups must supply the number of irrigated acres and the number of parcientes (members) on their applications. They must also provide documentation showing that their elected commission has formally approved the application for assistance and identify a Group Representative to manage the project. Group projects do not need to wait between application submittals.

Applications for the Group Acequia Program are accepted when the District office is open during regular business hours all year. The District has two batching periods (July 1 to December 31 is referred to as Batching Period 1 and January 1 to June 30 is referred to as Batching Period 2). Completed applications are reviewed during the six months following the end of the Batching Period where the completed application is received. All Group Acequia Program applications are first reviewed for completeness and eligibility. Eligible applications are then scheduled for site visits by the District Manager. During this site visit, the Group Representative must be present to discuss goals and any issues relating to the potential project. While at the site, the District Manager will assess the current condition of any related structures or infrastructure. The District Manager will also assess the level of ongoing parciente/member maintenance participation. The District does not fund regular maintenance (ditch cleaning, willow clearing, etc.). Group Representative availability during this review stage is essential and required. Two attempts will be made to contact the Group Representative. If the District does not receive a response within 30 days of the second attempt to contact, the application will be filed as non-responsive and the Group will be required to submit a new application if they would like to be considered for cost-share assistance. Occasionally, the District receives more applications than can be viewed in the six-month window following the end of the batching period. In those cases, the District will attempt to complete the review as soon as possible. Once all Group Acequia Program applications for the Batching Period are reviewed and visited, the District Manager will present them to the Taos SWCD Board of Supervisors for funding consideration. The Board of Supervisors will approve/deny applications based on available budget, number of acres and/or landowners a project will benefit, group readiness and responsiveness, the overall number of applications received, and project feasibility.

Projects that are categorized as Group Acequia Projects have the highest District funding priority (higher than any individual acequia program application). Group Acequia projects are cost-shared 85/15 (85% District, 15% Group) and have initial funding allocation of up to \$7,500.

After the application is reviewed by the Board of Supervisors, the Group will receive a letter (via USPS Certified Mail) indicating whether the application has been approved or denied. Some projects may be approved for Technical Assistance Only meaning that the District can provide a design but the Group must cover the cost of fabrication and installation by themselves. If an application has been denied, the Group may (within thirty days) submit an appeal to the Board of Supervisors. This happens on occasion when a Group realizes that the District may not have been aware of relevant information that could possibly elevate the potential project's priority rating.

If an application is approved, the Group is considered a "Cooperator" and the Group Representative must call the District to schedule an Orientation meeting. All Group commissioners are encouraged to attend this meeting. The

Orientation is a group meeting that includes program information and allows Cooperators to sign necessary paperwork to get their projects started. Orientations must be scheduled within thirty days of the date of the approval letter but the meeting (after scheduled) can take place beyond the thirty-day window. Orientation meetings are required once (they were implemented in 2018) so if a Cooperator has already attended one Orientation, they will need to schedule a meeting with the District Manager (within the same thirty-day window) to discuss any program changes and sign necessary paperwork. The necessary paperwork (at both the Orientation and District Manager meeting) includes an IRS Form W-9. Group Representatives will need to bring the Group's tax identification number with them to the Orientation. The District will issue a 1099 to the Cooperator following the calendar year that the Cooperator is paid for the project.

Once the Cooperator attends an Orientation (or District Manager meeting) and their required paperwork is complete, their project will be categorized as "ready for design". Because Group Acequia Projects have the highest priority, those will receive technical assistance and designs first (followed by the Large Landowner Acequia Program Cooperators, and then the Small Landowner Acequia Program Cooperators).

The District will provide the approved Group with a design that conforms to Natural Resource Conservation Service (NRCS) technical specifications. Once the design is complete, the Group Representative will be contacted to visit the office to review the designs and preliminary cost estimations. Group Commissioners are strongly encouraged to attend this meeting.

If the project is located on public lands, within waterways considered Waters of the US, or on public easements (ie. USFS, BLM, DOT, US Army Corps of Engineers, etc.), it is the Group Representative's responsibility to contact the entity(s) and secure any required permitting prior to construction.

If the project budget is estimated to be above \$7,500, the District may recommend that the group apply for the New Mexico Interstate Stream Commission (ISC) 90/10 Acequia Grant Program (or another program if available) to help with construction costs. If approved by the NM ISC, Taos SWCD cost-shares the groups out-of-pocket expenses (after ISC assistance) at the rate of 85% up to the initial funding allocation. If the initial funding allocation does not cover 85% of the groups after ISC out-of-pocket expenses, they may submit a written request to the Taos SWCD Board of Supervisors for additional funding. Approval of additional funding will depend on Taos SWCD budgetary constraints and are at the sole discretion of the Taos SWCD Board of Supervisors. It is important to note that Taos SWCD does not cost-share expenses related to pre-construction site cleanup/brush removal or bid advertising.

When funding is secured, Taos SWCD will provide the Group Representative with a template for a Notice of Bid to be published in the newspaper. It is the Group Representative's responsibility to advertise the bid, lead any pre-bid site visits, answer any questions from potential bidders, issue and disperse any amendments, and provide bidders with bid packets.

The Group Representative may request that bids be received at the Taos SWCD office (all bid deadlines must be coordinated with District staff prior to publication). If bids are received at the Taos SWCD office, the bid opening date and time detailed in the Notice of Bid will reflect those details. The bid opening is open to the public and the Group's commissioners must be present. The Group is responsible for documenting all bids received and reviewing them for potential disqualification. If specific permits and/or insurance bonding are required to do the work, it is the Groups responsibility to determine if the bidders meet those requirements.

After the bid is awarded, the contractor will have **sixty (60)** days to complete the project and will be required to coordinate inspections of fabrication and installation with District field personnel or Inspection Consultant to ensure that structures cost-shared by the District are being built in compliance with any/all required specifications. It is important to note that the contractor will be working for the Cooperator, not the District. The Cooperator will be responsible for payment(s) to the contractor.

For larger projects, the contractor may submit invoices as the project progresses. The Group Representative will submit invoices to any/all other funding entities before submitting them to the District. For example, if the Group has also gotten funding from the New Mexico Interstate Stream Commission, they will exhaust that funding before requesting funding from the District. Once the project has been completed and District field personnel or Inspection Consultant has confirmed that it complies with required specifications, Group Representative must submit copies of the awarded bid, funds received from the NM ISC (or any other entity contributing to the project), and any payments already made to the contractor. After District administrative staff has reviewed all income and expenses related to the project, they will prepare project close-out forms and a District cost-share payment. Cooperators are required to sign an acknowledgment that indicates that they are satisfied with their completed project before the final payment is released from the District.

Cooperators are responsible for all liability, operation, and ongoing maintenance of these structures (including sand/silt cleanouts, trash removal, etc.).

Example: 2/1/2018: Acequia Mucha Agua (AMA) needs a new diversion dam because theirs is no longer usable. Their water originates from the Rio Pueblo and their diversion dam is located on property owned by the United States Forest Service (USFS). AMA applies for Taos SWCD's Group Acequia Program.

9/1/2018: Taos SWCD approves the project and assigns an initial funding allocation of \$7,500.

3/1/2019: AMA's design is complete and the project is estimated to cost \$160,000. AMA submits an application (with all required attachments) accompanied by the final engineer-stamped design and cost estimate to the New Mexico Interstate Stream Commission (ISC) for funding consideration via the 90/10 Acequia Grant Program. AMA also contacts the relevant USFS field office to request a Special Use Permit for construction. USFS reviews the application and final designs, negotiates construction boundaries, timelines, and cleanup and subsequently issues a Special Use Permit to AMA. AMA also contacts the relevant US Army Corps of Engineers (USACE) office and submits a copy of the design showing that even though the structure will be new, the overall footprint and location hasn't changed. The USACE reviews the design and agrees that the footprint and location hasn't changed and therefore AMA does not need a 404 permit for construction within the Waters of the US. AMA retains the email correspondence with USACE in case they are approached for USACE documentation during construction.

7/1/2019: ISC has approved the project with a budget of \$144,000 (ISC can cover 90% of estimated cost up to a maximum of \$150,000). AMA meets with Taos SWCD staff to set bid deadlines, schedule a pre-bid conference, determine where bids can be picked up, and decide where bids will be submitted. AMA submits Notice of Bid to Taos News for publication in their Legals section with a deadline for bids of 4:00 p.m. on 7/21/2019.

7/21/2019: AMA's commissioners and mayordomo arrive at the Taos SWCD office at 3:45. At 4:00 p.m., AMA opens each bid, noting who the bidder is, whether required bonding information is included, and the total bid amount (after tax). It is determined that the low bid was received from Joe Good Guy with a total after-tax amount of \$162,000 and a construction start date of 10/2/2019. The bid is awarded to Mr. Good Guy.

10/2/2019: Mr. Good Guy begins dewatering site and is fabricating sections of the structure at his shop. He has coordinated fabrication with District field personnel or Inspection Consultant to ensure that the structure is being fabricated in accordance with all required specifications. Once the prefabricated portion is ready to transport and install at the site, Mr. Good Guy submits an invoice to AMA for services and materials already provided (\$75,000). The District field personnel or Inspection Consultant and AMA representative sign the invoice confirming that the invoice is for services and material already provided and AMA submits this invoice to the ISC. ISC issues payment (\$75,000) to AMA and AMA pays Mr. Good Guy \$75,000. When work is complete, Mr. Good Guy submits another invoice for the balance due to him. AMA and the District field personnel or Inspection consultant sign the invoice confirming that the work is complete and meet required specifications. AMA submits the new invoice to ISC. ISC releases its final payment of \$69,000 and AMA pays that amount to Mr. Good Guy. Mr. Good Guy would like to be paid the remaining \$18,000. AMA knows that it has a Taos SWCD allocation of up to \$7,500 so they make an appointment with the District to discuss their remaining construction balance. They submit a written request (and attach supporting documentation) to the Taos SWCD Board of Supervisors for an increase in their funding allocation. The District determines that 85% of \$18,000 would be \$15,300 and so, at its regularly scheduled monthly board meeting, votes to increase AMA's funding allocation from \$7,500 to \$15,300 (85% of balance after all other funding sources exercised). AMA uses that funding to pay Mr. Good Guy and has a final balance of \$2,700 which they must pay themselves.

Alternate 1: Taos SWCD cannot increase the AMA allocation due to unavailability of funds. In this scenario, Taos SWCD pays AMA the original \$7,500 and AMA is responsible for the remaining \$10,500.

Alternate 2: The cost estimate and bids were much lower and the balance due after ISC funding is \$8,000 instead of \$18,000. In this scenario, Taos SWCD pays AMA \$6,500 (85% of balance due after all other funding sources exercised). AMA is responsible for the remaining \$1,500. The remaining \$1,000 for Taos SWCD's AMA project allocation is transferred to the District's unrestricted funds and is used towards another approved natural resource project. AMA cannot use the remaining \$1,000 for another project unrelated to the approved diversion dam project.