



Florida Fish
and Wildlife
Conservation
Commission

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Division of Law
Enforcement

Boating and Waterways
Section

FWC Derelict Vessel
Removal Grant Program

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FWC Derelict Vessel Removal Grant Program Guidelines

Effective November 2019

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SECTION I PROGRAM DESCRIPTION AND PURPOSE

1.1 Purpose

The Florida Fish and Wildlife Conservation Commission (FWC), pursuant to sections 206.606 and 376.15, F.S., hereby establishes this program to provide grants to local governments and other political subdivisions of the state for reimbursement for the removal of derelict vessels from the public waters of the state.

1.2 Source of Funds

In the event monies are appropriated by the Legislature, and/or if other funding is available for the Derelict Vessel Removal Grant Program for a given fiscal year, FWC shall announce the availability of funding and the application submission period in the *Florida Administrative Register* and on the web at MyFWC.com/DVGrant.

Both the bulk derelict vessel removal and the rapid removal grant opportunities described herein will operate simultaneously during the funding cycle until the end of the posted application period or until available funding is exhausted, whichever occurs first.

SECTION II DEFINITIONS

2.1 Definitions

As used herein, the term:

AGREEMENT: means the written document under which the grantee and FWC mutually agree to carry out respective responsibilities to accomplish the removal of derelict vessels from the waters of the state.

APPLICANT: means an eligible participant that applies to FWC for program funds.

APPLICATION: means a formal request for program funds by an applicant on the form approved by FWC, submitted with all required documentation.

GRANTEE: means an applicant whose application has been selected and approved for a funding award and who is the party responsible for completing the project and reporting project completion to FWC.

DATABASE: means the Statewide Derelict Vessel Database.

DERELICT VESSEL: means a vessel, as defined in section 327.02, F.S., that is left, stored, or abandoned:

1. In a wrecked, junked, or substantially dismantled condition upon any public waters of this state.
2. At a port in this state without the consent of the agency having jurisdiction thereof.
3. Docked, grounded, or beached upon the property of another without the consent of the owner.

FWC: means the Florida Fish and Wildlife Conservation Commission.

PROGRAM ADMINISTRATOR: means the FWC staff member designated by the Director, Division of Law Enforcement (or designee), to manage the FWC Derelict Vessel Removal Grant Program.

PROGRAM FUNDS: means funding available for the FWC Derelict Vessel Removal Grant Program as appropriated by the Florida Legislature or any other available funding directed toward the program.

PROJECT: means a proposal that is approved and funded by the state, undertaken for the purpose of removing derelict vessels from the public waters of the state.

PROJECT COMPLETION: means removal of all derelict vessels identified in the Agreement by the grantee, timely submission of all receipts, reports and images required as proof of such removals, and the closeout of the derelict vessel case in FWC's Derelict Vessel Database, indicating that the project is completed in accordance with the Agreement.

SECTION III ELIGIBILITY

3.1 Eligible Participants

Eligible participants shall include state, county and municipal governments of the state of Florida, Florida water management districts and inland navigation special taxing districts. Non-Governmental Organizations (NGOs) will be required to operate under an agreement with a county or municipality. Grant funds under this program will not be directly awarded to NGOs or private citizens. Applicants who have at least one derelict vessel in their jurisdiction are eligible to apply for grant funding under this program.

3.2 Eligible Uses of Program Funds

Derelict vessel removal grants shall only be used for the costs of removal and disposal of derelict vessels.

Applicant administrative costs will not be paid from grant funds.

Pursuant to section 705.101(3), Florida Statutes, all derelict vessels are also abandoned property. In section 376.15, Florida Statutes, the Florida Legislature has made clear its intent that recipients of grant funding under this program demonstrate commitment to maintain waters free of abandoned and derelict vessels and to seek legal action against those who abandon vessels in the waters of the State. This commitment can be demonstrated by Applicants investing time and resources into thoroughly completing a law enforcement investigation and thoroughly documenting that investigation in the database. Derelict vessels without updated cases in the database will be considered ineligible to receive removal funding from this program. Specific details of what must be included in the database for a vessel to be eligible for removal grant funding under this program are provided herein.

In order to be eligible for removal, vessels included in an application must have been the subject of an investigation completed by a law enforcement officer which met all Constitutional due process requirements. This includes requirements that the owner or responsible party had the opportunity to appear before a criminal court to dispute the vessel's derelict condition and/or the owner or responsible party was notified the vessel was derelict and was offered the opportunity for an appropriate alternative hearing to dispute the determination that the vessel was derelict.

In keeping with the statutory expectation that applicants demonstrate commitment to seek legal action against those who abandon vessels in the waters of the State, for each vessel included on an Application, the Applicant must indicate whether or not the vessel owner or responsible party was charged with a violation of either section 823.11 or section 376.15, Florida Statutes. If the owner or responsible party was not charged, the Applicant must indicate whether a law enforcement officer requested that the State Attorney file charges directly against the owner or responsible party. In order for a vessel to be eligible for removal grant funding under this program, the vessel owner or responsible party must have either been charged with a violation of section 823.11 or section 376.15, Florida Statutes, or a law enforcement officer must have requested that the State Attorney file charges directly and the State Attorney must have declined to do so. The only exception shall be when by diligent search and inquiry law enforcement was unable to identify an owner or responsible party or the responsible party was unable to be located. A diligent search and inquiry shall include, at a minimum, a thorough canvassing of the area where the vessel is located, checking with local police departments and Sheriff's offices, and thoroughly searching for title and registration on any identified registration, documentation, hull identification or engine serial numbers. These identification efforts must be thoroughly documented in the Database.

3.3 Ineligible Uses of Program Funds:

Program funds will only be awarded for projects that are directly associated with the removal and destruction of a derelict vessel from the waters of the state. Costs listed below are some examples of those not eligible for reimbursement under this program:

- The salaries of any government agency personnel involved with the removal projects.

- Costs not related to the actual removal and destruction of a derelict vessel.
- Costs for legal fees.
- The purchase of equipment of any kind.
- Vessel storage costs.

SECTION IV GENERAL INSTRUCTIONS FOR ALL DERELICT VESSEL GRANT APPLICATIONS

4.1 Submission Address

Applications must be delivered on or before the last day of the announced submission period, no later than the close of business, to the following address:

Florida Fish and Wildlife Conservation Commission
 Division of Law Enforcement
 Boating and Waterways Section
 Attn: Derelict Vessel Removal Program
 620 South Meridian Street, Room 235
 Tallahassee, Florida 32399-1600

OR DVGrant@MyFWC.com

4.2 Application Form and Instructions

Applicants must submit applications on FWC's Derelict Vessel Removal Grant Application form (FWC/DERELICT VESSEL-APP (July 2019)). The application form and instructions may be obtained from FWC's Web site at MyFWC.com/DVGrant.

Instructions provided with the application form include information about how to complete each section and the correct format for submission in order for the application to be considered complete. The applicant shall submit the application and all attachments as paper copy or may email the application and all attachments to DVGrant@MyFWC.com.

4.3 Cover Letter

Applications are to be submitted with a cover letter addressed to the FWC Derelict Vessel Removal Grant Program administrator. The cover letter should request consideration of the project and include the total amount requested.

4.4 Authorization to Apply

Applications must include documentation of formal authorization by the appropriate governing body that the individual signing the application form has the authority to apply for and administer the grant on behalf of the governing body.

4.5 Application Number

All grant applications will be assigned an application number by FWC staff once the Application is received. Applicants will use this grant application number for all future correspondence regarding the application and/or project.

4.6 Incomplete Applications

Applications must include, at a minimum, the required attachments as indicated in the application attachments checklist section of the application form. Applications will be reviewed for completeness, eligibility as explained in these guidelines, and compliance with all applicable laws. The applicant will be notified by email if any portion of the application is considered by FWC to be incomplete or if the application is ineligible. The applicant will be given an opportunity within ten (10) calendar days from receipt of the email to provide FWC with any necessary information or documentation to complete the application package or document eligibility. Failure to provide the requested information or documentation within this time period will result in the application being rejected.

4.7 Grant Awards Process

Each vessel listed on a grant application will be compared against the Statewide Derelict Vessel Database for accuracy and eligibility.

Grant funding shall be awarded on a “first come, first served” basis. No applicant shall be eligible for more than 25 percent of the funding available in a fiscal year during the first half of that year. At the beginning of the third quarter, an applicant who has already received the maximum 25 percent for the first half of the fiscal year may reapply for additional grant funding up to the amount of the remaining funds available in that year.

The costs of removal and destruction of eligible derelict vessels listed on complete and eligible applications shall be funded 100 percent by this grant program.

Rapid Removal Grant requests will be processed as soon as practicable and shall be expedited to the extent possible.

FWC will accept applications on a continuous basis until available funding has been exhausted or the advertised submission period ends, whichever occurs first.

FWC program staff will update the FWC website to notify applicants of remaining available funds at MyFWC.com/DVgrant. Applicants should check the website or contact FWC directly to ensure funds availability before submitting applications.

4.8 Advanced Funds

FWC will not approve a request for any advance in program funds. The grantee must have the financial capability to process invoices and make timely payments to contractors, vendors or other similar payees prior to receiving program funds for reimbursement of project expenses.

4.9 Pre-Award Costs

Costs for environmental reviews or permitting required to begin a project are allowable as pre-award costs **only** if the application clearly identifies the costs as occurring prior to the application being submitted, and a detailed explanation is provided as to why the cost expenditures were necessary prior to the application being submitted and awarded. Removal operations started before agreement execution will not be eligible for reimbursement.

4.10 Payment of Grant Funds

Payment of grant funds to the Applicant shall be by warrant (check) or direct deposit/electronic funds transfer.

SECTION V APPLICATION PROCESS FOR BULK DERELICT VESSEL REMOVAL GRANTS

5.1 Project Type

Unless conditions of eligibility currently exist that would qualify a specific vessel for removal under the Rapid Removal Grant process, the applicant will utilize the Bulk Derelict Vessel Removal Grant process.

5.2 Applications

The applicant will complete the Derelict Vessel Removal Grant Application and mark the checkbox for Bulk Derelict Vessel Grant. This grant opportunity is designed for the Applicant to remove as many derelict vessels within their jurisdiction as possible within a single coordinated project.

All vessels for which grant funding is sought must have been the subject of an investigation completed by a law enforcement officer who has also made all notifications as required by section 705.103(2), F.S. The Applicant must have received a letter of removal authorization from law enforcement indicating that all Constitutional due process requirements were met in the investigation.

Vessels for which the applicant or another law enforcement or governmental entity have not provided due process, as required by the Florida and Federal Constitutions may not be destroyed and disposed of. They may be relocated or removed from the water without destruction or disposal until such time as due process has been provided in accordance with sections 823.11(3), 376.16(3), and 327.44(3), F.S. The applicant will be solely responsible for all costs incurred for relocation and removal of derelict vessels for which the owner has not received due process. These costs do not qualify for grant funding under this program.

SECTION VI APPLICATION PROCESS FOR RAPID REMOVAL DERELICT VESSEL GRANTS

6.1 Rapid Removal General Process and Criteria for Eligibility

This process is designed for those vessels that have an urgent need for immediate removal. When a derelict vessel is in danger of imminent sinking or breaking apart or is a critical danger to public safety or the environment and these facts can be verified by the investigating officer, it will be eligible for rapid removal.

In addition to meeting all eligibility criteria in section III above, the requirements of this section will apply to a Rapid Removal Grant application.

The FWC program administrator and staff will review the application and, if the burden has been met to show just cause for rapid removal, the award will be issued as soon as practicable based on available funding. FWC program staff will notify the applicant by phone and email whether the project has been awarded. If awarded, FWC will initiate a purchase order to be issued to the grantee for the amount of the vessel removal. As soon as FWC receives proof of project completion, payment will be approved for disbursement to the grantee.

The applicant will complete the Derelict Vessel Removal Grant Application and mark the check box for Rapid Removal Derelict Vessel Grant. The applicant must articulate in their application the justification for elevation to the Rapid Removal Program.

Multiple vessels may be applied for under a single rapid removal grant application as long as they all meet the rapid removal criteria.

6.2 Rapid Removal Timeline:

If a vessel is qualified for rapid removal and the applicant is otherwise eligible, a purchase order will be requested by FWC staff for the project (funds permitting). Once a purchase order has been approved by FWC program staff, the grantee will be emailed permission to begin the work immediately.

A vessel may qualify for rapid removal grant funding even though due process procedures have not yet been provided if it meets all other criteria contained in these Guidelines. Once the applicant is notified of a grant award, the vessel may be immediately removed from the water, but not destroyed. The vessel must be removed from the water without intentionally dismantling or destroying the vessel. The investigating law enforcement officer is responsible for entering the vessel information into the database on/or before the day of application for grant funding. Eligibility for state funding will require an emailed approval by the FWC's Derelict Vessel Program administrator or staff prior to removal of the derelict vessel. Completion of derelict vessel determination and database entries with law enforcement supervisor's approval are required before payment for removal is made.

Once removed from the waters of the state, the vessel must be held in a safe and secure location where the officer can complete the derelict vessel investigation and provide appropriate due process procedures and other required notifications. The grantee will be responsible for storage of the derelict vessel and all related storage costs once on land. After the law enforcement officer

has completed the investigation, provided notifications and an opportunity for due process, the vessel may be destroyed absent a judicial finding that the vessel was not derelict upon the waters of the state.

Once all due process has been provided, law enforcement must provide the grantee a letter indicating that all Constitutional due process requirements were met in the investigation and the vessel may be destroyed and disposed of.

This grant program will cover the costs of removal, transportation to the storage location, transportation to the disposal site, and destruction and disposal only.

SECTION VII GRANT AGREEMENT

7.1 Grant Agreement

Upon approval of a project for funding, the grantee and FWC shall enter into a grant agreement. This grant agreement will describe the responsibilities of both parties and terms and conditions particular to each project, and will require compliance with applicable statutes, rules, and policies. Unless otherwise specified herein or in the Agreement, a project may not commence until the grant agreement is fully executed by all parties.

If it is necessary that the project begin before the Agreement is executed, the grantee must submit a request in writing that includes a detailed justification explaining why it was necessary. If approved, FWC will include a provision in the Agreement authorizing pre-agreement costs only for environmental reviews or permitting. These costs **will not** be reimbursed unless specifically requested by the grantee and approved by FWC. No other pre-agreement costs will be approved except as provided herein.

7.2 Execution of Agreement

Upon receipt of the Agreement from FWC, the grantee must sign the agreement and return it to FWC prior to the commencement of work. Failure to execute the Agreement within thirty (30) days will render the grant null and void, unless the grantee requests an extension and provides a detailed justification.

VIII COMPLIANCE REQUIREMENTS

8.1 Statewide Derelict Vessel Database Requirement

Every vessel listed in an application must be entered in the Statewide Derelict Vessel Database. The case must reflect a completed investigation by a sworn law enforcement officer determining the vessel to be derelict.

For each vessel included in a grant application, the case file in the database must include well-articulated investigative notes from the officer supporting the determination of the vessel as derelict. The case file must also include uploaded images of the vessel and the associated conditions supporting the derelict determination. It must also contain a close-up image of the derelict vessel sticker that was placed on the vessel and an image of the vessel with the sticker posted on it. There must be a copy of documentation providing the owner or responsible party with notification of his or her due process rights and providing proof of receipt or delivery to the owner or responsible party. For creation of a database account and training, contact the FWC Boating and Waterways Derelict Vessel Administrator at (850) 488-5600.

8.2 State and Federal Laws, Authorized Disposal Sites, Manatee Protection Plan

Projects must comply with all local, state and federal regulations, including the Manatee Protection Plan; obtain state or federal permits, if necessary; and follow all laws related to procurement for any labor, equipment, materials, facilities, construction and other services related to the project funded. Authorized disposal sites for derelict vessels shall be limited to permitted artificial reef sites, with pre-approval and permitting of a reefing project, and /or a permitted landfill.

8.3 Project Completion Requirement

Failure to complete the project and make final payment request to FWC within the stipulated payment will result in grant termination and possible loss of program funds.

8.4 Timeline and Agreement Changes

The grantee shall inform the FWC Derelict Vessel Program staff of any changes or time delays incurred with the project. If deadlines or other terms of the agreement cannot be met, the grantee must notify FWC immediately and request an amendment to the agreement.

8.5 Federal Law in Hiring Practices

The grantee shall require that qualified project contractors and project staff that are paid using state program funds are hired without regard to race, creed, color, national origin, age, sex, or disability.

8.6 Project Execution Timeline

Work shall begin within sixty (60) days of execution of the agreement, unless delay is of no fault of the grantee, or the agreement shall be cancelled.

8.7 Cost Overruns

The grantee shall make every effort to avoid cost overruns on a project. If the total cost of the project exceeds the grant amount, the grantee shall assume liability for all additional costs.

8.8 Agreement Compliance Requirement

A grant agreement will be terminated, and program funds returned to FWC for non-compliance with any of the terms of the agreement or these guidelines, unless the non-compliance is rectified by the grantee.

8.9 Contingency Fees Prohibited

Contingency fees are prohibited. Applicants must agree that they have not, or will not, pay or agree to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the applicant, any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award of a grant from this Program.

8.10 Employment Verification System

A grantee shall enroll in and use the U.S. Department of Homeland Security's E-Verify Employment Eligibility Verification System (<http://www.uscis.gov/portal/site/uscis>) to verify the employment eligibility of all new employees hired by the grantee during the term of the grant agreement. Additionally, the grantee, in any subcontracts for the performance of work or services pursuant to the grant's scope of work, shall include the requirement that the subcontractor use the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.