

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

LANCE NISTLER,

Plaintiff,

v.

TIM WALZ, in his official capacity as
Governor of the State of Minnesota, and
THOM PETERSEN, in his official
capacity as Commissioner of the
Minnesota Department of Agriculture,

Defendants.

Civil Action No. 24-cv-186

**COMPLAINT
FOR DECLARATORY AND INJUNCTIVE RELIEF AND NOMINAL DAMAGES**

INTRODUCTION

1. Lance Nistler is a lifelong Minnesotan. He has been farming since he was a boy. He's still a farmer today. His dream is to one day have his own farm near his home in Northern Minnesota.

2. Nistler, like many aspiring Minnesota farmers, has found the rising cost and shrinking availability of farmland in the state is crippling his dream of a family farm. Despite the obstacles, Nistler is not giving up on his dream. He is determined to buy 40 acres of farmland in Beltrami County, Minnesota, where he can grow soybeans, oats, and wheat.

3. Nistler's story is the precise reason the Minnesota Legislature adopted the Down Payment Assistance Grant Program. The program aims to slow the disappearance of

the state's proud and deeply rooted family farming culture by helping new farmers buy their first farms. The program offers up to \$15,000 in grant funds toward the purchase of farmland.

4. When Nistler heard of the program, he saw his chance to make his dream a reality and applied for the latest round of grants. And, to his apparent luck, his application was one of the first few drawn in the program's lottery.

5. That's when his luck changed. The state denied his grant application. Despite Nistler being the model individual the state ought to be assisting with farm ownership, and despite being one of the first applications picked in the lottery, he lacked the state's preferred skin color and sex. His application was pushed to the back of the line, solely because of his race and sex.

6. Nistler brings this lawsuit to vindicate his constitutional right to equal protection of the law. He brings it to give all Minnesotans a fair chance at a difference-making grant program. He brings it in the hope that he will be able to own that small farm in the near future. He brings it because he is not giving up on his dream.

JURISDICTION AND VENUE

7. This action arises under the Fourteenth Amendment to the United States Constitution, 42 U.S.C. §§ 1981 and 1983. This Court has jurisdiction over these federal claims under 28 U.S.C. §§ 1331 (federal question) and 1343(a) (redress for deprivation of civil rights). Declaratory relief is authorized by the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

8. Venue is proper in this Court under 28 U.S.C. § 1391(b), as Defendants are residents of this judicial district and the state of Minnesota. Venue is also proper in this Court under 28 U.S.C. § 1391(b) because the events giving rise to the claim occurred or will occur in this district.

PARTIES

9. Plaintiff Lance Nistler is an individual who resides in Kelliher, Minnesota. Nistler applied for a grant from the Down Payment Assistance Grant Program on July 20, 2023, and is able and ready to apply for the grant program's next round of funding when it is released.

10. Defendant Tim Walz is the governor of Minnesota. As Governor, Mr. Walz executes the laws of the state, including those implementing the Down Payment Assistance Grant Program. Mr. Walz also appoints state commissioners, including the commissioner of the Minnesota Department of Agriculture. Mr. Walz is sued in his official capacity.

11. Thom Petersen is the commissioner of the Minnesota Department of Agriculture. Mr. Walz appointed Mr. Petersen as commissioner in 2019 and reappointed him in 2023. As the commissioner, Mr. Petersen has the responsibility of encouraging and promoting the development of the state's agricultural industries, as well as serving as the chairperson of the Rural Finance Authority, which assures the viability of farm operations and the financial stability of farmers in the state. Mr. Petersen is sued in his official capacity.

FACTUAL ALLEGATIONS

The Down Payment Assistance Grant Program

12. In November 2022, the Minnesota Department of Agriculture (MDA) announced the Down Payment Assistance Grant Program, which helps Minnesota farmers purchase their first farms. The program came from a \$500,000 appropriation by the Minnesota Legislature in its fiscal year 2023 budget. Under the grant program, qualified small farmers could receive up to \$15,000 to purchase farmland. To qualify, applicants were required to be Minnesota residents earning less than \$250,000 annually in gross agricultural sales, provide the majority of day-to-day labor on the farm they planned to purchase for at least five years, and could not have previously owned farmland.

13. When applications opened in January 2023, the grant program almost instantly garnered enough applications to meet its waitlist cap. The MDA Rural Finance Authority (RFA) administered the grant program and awarded the funding on a first-come, first-served basis.

The Program Is Amended to Give Preference on the Basis of Race and Sex

14. In light of the grant program's immense popularity, the Minnesota Legislature approved additional rounds and increased its funding. On May 12, 2023, Governor Walz signed Senate File 1955, the "Agriculture, Broadband, and Rural Development Bill." The bill doubled the funding for the program's second round of grants, making a total of \$1 million available to eligible farmers in 2023. Another \$1 million would be available for a third round of funding in the summer or fall of 2024.

15. But the latest bill significantly changed how the funds would be awarded. Instead of awarding funds on a first-come, first-served basis, the bill requires the MDA to prioritize “emerging farmers,” as set forth in section 17.055 of Minnesota Statutes.

16. Section 17.055 refers to emerging farmers as those who are women, veterans, persons with disabilities, American Indian or Alaskan Natives, members of a community of color, young, LGBTQIA+, or urban, and any other emerging farmers as determined by the MDA commissioner.

17. On June 12, 2023, the RFA announced that applications would be accepted from July 1 to July 31, 2023, for the second round of Down Payment Assistance Grant Program funding.

18. Qualified farmers could again receive up to \$15,000 to purchase farmland within the state of Minnesota. To qualify, applicants must:

- Be a Minnesota resident;
- Purchase farmland as an individual or married couple;
- Be in good standing with the state of Minnesota;
- Provide most of the physical labor and management on the farm to be purchased;
- Plan to own the farmland to be purchased for at least five years;
- Agree that they will pay a penalty to the commissioner equal to 20 percent of the grant amount for each year they do not own and farm the land during the five-year period;

- Have not, and whose spouse has not, previously had direct or indirect ownership in farmland or other agricultural property;
- Have grossed less than \$250,000 from the sale of farm product in the most recent tax year; and
- Have not been convicted of a criminal offense related to a state grant agreement.

19. Applicants were required to match the funding they are awarded with at least \$8,000 of other funding, such as through cash, loans, or other grants. If the applicant matched the award with less than \$8,000, the maximum grant award they would receive would be equal to the matching amount they provide. The grant may only be used toward a purchase that closes after approval of the grant application, and the purchase must be completed within six months after the application is approved, or by June 30, 2024, whichever is sooner.

20. To determine the order in which grants would be awarded, all eligible applications would be randomly drawn in a lottery. After the initial lottery, the applications would be reordered to provide emerging farmers preference over nonemerging farmers.

21. The RFA expected to award approximately 66 grants in the second round of funding. If funding remains after the RFA has awarded grants to all eligible emerging farmer applicants, the RFA will award as many grants as funding allows to nonemerging farmers in the order of their lottery placement. A true and correct copy of the grant program guidelines appears at Exhibit A to this Complaint.

22. Because of the preference given to emerging farmers based on race, white applicants receive a preference in the lottery only if they satisfy a separate criterion. Minority applicants, on the other hand, are automatically preferred without needing to satisfy a separate criterion. Likewise, the preference given to emerging farmers based on sex means males may be preferred in the lottery only if they satisfy a separate criterion, while women are automatically preferred without needing to satisfy any other criteria.

23. Applicants for the second round of funding were able to complete the grant program application online at the MDA's website or email a copy of the application to the RFA.

24. Instructions on the grant program application reiterated that the MDA gives preference to emerging farmers and defined emerging farmers to include

farmers or aspiring farmers who are women, veterans, persons with disabilities, American Indian or Alaskan Natives, members of a community of color, young (35 and younger), lesbian, gay, bisexual, transgender, queer, intersex, or asexual (LGBTQIA+), urban (reside in cities with a population over 5,000 or within the boundaries of federally recognized tribal land regardless of population size), and any other emerging farmers as determined by the commissioner.

As such, applicants are required to indicate on the application whether they are emerging farmers. A true and correct copy of the grant program application appears at Exhibit B to this Complaint.

Plaintiff Is Denied a Down Payment Assistance Grant Because of His Race and Sex

25. On July 20, 2023, Nistler submitted an online application for grant funds from the Down Payment Assistance Grant Program to purchase farmland.

26. Mr. Nistler indicated on his application that he satisfied all of the requirements to be eligible for a grant: he is a Minnesota resident; the farmland he wants to purchase is located within the state and he will purchase it as an individual; he agrees to pay the specified penalty for each year he does not own and farm the land during the requisite five-year period; he is in good standing with the state; he would provide the majority of physical labor and management for the farm; neither he nor his spouse have previously owned farmland or other agricultural property; he did not gross more than \$250,000 from the sale of farm product in the most recent tax year; and he has never been convicted of a criminal offense related to a state grant agreement.

27. However, as a white male, Mr. Nistler could not mark on his application that he is an emerging farmer.

28. In August 2023, the RFA conducted a lottery of the grant applications. Mr. Nistler's application was drawn ninth. However, in implementing the preference for emerging farmers, the MDA subsequently rearranged the order of the applications, causing Mr. Nistler to be ranked 102nd on the waitlist.

29. The MDA awarded 68 applicants with grant funding. One-hundred-and-one applicants on the waitlist would receive grants before Mr. Nistler if any funding remains.

30. Because of where his application was drawn in the lottery, Nistler would have received a grant if he was from a "community of color."

31. Because of where his application was drawn in the lottery, Nistler would have received a grant if he was a woman.

32. To date, Mr. Nistler has not received any funds from the Down Payment Assistance Grant Program. He intends to apply for funds from the program's third round of funding when applications become available in the summer or fall of 2024. That round will have the same eligibility criteria, preference for emerging farmers, conditions, and lottery process for selecting awardees as the last round in which Nistler applied.

CLAIMS FOR RELIEF

First Cause of Action **(42 U.S.C. § 1983 – Violation of the Equal Protection Clause)**

33. Plaintiff incorporates and realleges each and every allegation contained in the preceding paragraphs of this Complaint.

34. Those aggrieved by constitutional violations undertaken by state actors acting under color of law have a private right of action under 42 U.S.C. § 1983.

35. State actors and their agents, under the color of state law, have enacted and enforced, and will continue to enact and enforce, the state's preference for minority and women farmers in the awarding and administering of grant funds, including funds awarded under the Down Payment Assistance Grant Program. Defendants authorized, developed, and implemented the state's preference for minority and women farmers.

36. The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution provides that no state shall "deny to any person within its jurisdiction the equal protection of the laws."

37. Minnesota's preference for minority farmers in the awarding and administering of grant funds, including funds awarded under the Down Payment Assistance

Grant Program, is subject to strict scrutiny because it classifies individuals based on their race.

38. Defendants do not have a compelling interest in preferring minority farmers in the awarding and administering of grant funds, including funds awarded under the Down Payment Assistance Grant Program.

39. Defendants' preference for minority farmers in the awarding and administering of grant funds, including funds awarded under the Down Payment Assistance Grant Program, is not narrowly tailored to a compelling government interest.

40. Minnesota's preference for women farmers in the awarding and administering of grant funds, including funds awarded under the Down Payment Assistance Grant Program, is subject to intermediate scrutiny because it classifies individuals based on their sex.

41. Defendants do not have an exceedingly persuasive objective for preferring women farmers in the awarding and administering of grant funds, including funds awarded under the Down Payment Assistance Grant Program.

42. Defendants' preference for women farmers in the awarding and administering of grant funds, including funds awarded under the Down Payment Assistance Grant Program, is not substantially related to an exceedingly persuasive objective.

Second Cause of Action
(42 U.S.C. § 1981 – Deprivation of Civil Rights Based on Race)

43. Plaintiff incorporates and realleges each and every allegation contained in the preceding paragraphs of this Complaint.

44. Section 1981 prohibits discrimination on the basis of race and protects the right of all persons in every State to make and enforce contracts and to the full and equal benefit of all laws and proceedings for the security of persons and property.

45. Defendants violate section 1981 by purposefully and willfully denying Plaintiff the equal opportunity to be considered for a grant under the Down Payment Assistance Grant Program because of Plaintiff's race.

46. Defendants' actions are in accordance with an official policy and custom of the state of Minnesota, specifically and not limited to section 17.055, subdivision 3, of the Minnesota Statutes, and the Down Payment Assistance Grant Program, which require the state to prefer minority applicants in the awarding and administering of grants. Defendants' actions caused the deprivation of Plaintiff's rights.

47. Plaintiff is a member of the racial category that Defendants disfavor for the awarding of a grant under section 17.055, subdivision 3, of the Minnesota Statutes, and the Down Payment Assistance Grant Program. Defendants were aware of Plaintiff's race at the time Defendants considered Plaintiff's application for a grant and carried out the race-based preference in determining recipients of the grant. Defendants' deprivation of Plaintiff's rights occurred due to Plaintiff's race.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court:

- (a) Declare Minnesota's preference for minority and women applicants in the awarding and administering of grants in section 17.055, subdivision 3, of the Minnesota Statutes and the Down Payment Assistance Grant Program

unconstitutional under 42 U.S.C. §§ 1981 and 1983 and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

- (b) Permanently enjoin Defendants and their agents from enforcing or giving any effect to Minnesota Statutes and any other policy, practice, or procedure that prefers minority and women applicants for the awarding and administering of down payment assistance grants, including in section 17.055, subdivision 3, of the Minnesota Statutes, and the Down Payment Assistance Grant Program, and from otherwise discriminating on the basis of race and sex in the awarding and administering of such grants.
- (c) Issue an award of attorneys' fees and costs in this action pursuant to Federal Rule of Civil Procedure 54(d) and 42 U.S.C. § 1988;
- (d) Issue an award of nominal damages in the amount of \$1.00; and
- (e) Provide such other and further relief as the Court deems just and proper.

DATED: January 24, 2024.

Andrew R. Quinio *
Cal. Bar No. 288101
Joshua P. Thompson*
Cal. Bar No. 250955
Pacific Legal Foundation
555 Capitol Mall, Suite 1290
Sacramento, California 95814
Tel.: (916) 419-7111
Fax: (916) 419-7747
AQuinio@pacificlegal.org
JThompson@pacificlegal.org

Respectfully submitted,

/s/ James V. F. Dickey
James V. F. Dickey
Minn. Bar No. 393613
Upper Midwest Law Center
8421 Wayzata Boulevard, Suite 300
Golden Valley, Minnesota 55426
Tel.: 612-428-7000
james.dickey@umlc.org

**Pro Hac Vice motions forthcoming*

Counsel for Plaintiff



Minnesota Down Payment Assistance Grant

FY2024 Request for Proposals (RFP)

In accordance with the Americans with Disabilities Act, this information is available in alternative forms of communication upon request by calling 651-201-6000. TTY users can call the Minnesota Relay Service at 711. The MDA is an equal opportunity employer and provider.

Table of Contents

Grant Summary	3
Overview	3
Funding Availability	3
Eligibility.....	4
Eligible Purchases	4
NOT Eligible	4
Matching Funds	5
How to Apply and Grant Timeline	6
Apply Two Ways	6
After Approval	6
How to Submit Questions	7
Application Review Policies.....	7
Review and Award Process	7
Conflicts of Interest	7
Privacy Notice and Data Classification	8
Requirements for Grant Recipients	9
Accountability and Reporting.....	9
Grant Award Agreement and Payments	9
Affirmative Action and Non-Discrimination Policy	9
Audits of Project.....	10
Application Definitions and Questions.....	10
Definitions	10
Application Questions	11

Grant Summary

Overview

The Minnesota Down Payment Assistance Grant offers up to **\$15,000 for qualified farmers to purchase their first farm**. The grant program is administered by the Minnesota Department of Agriculture's Rural Finance Authority (RFA) as part of its mission to develop the state's agricultural resources.

The intent of the grant program is to help emerging farmers invest in farm ownership. With the average age of farmers increasing in our state, farm succession and legacy planning is important to the sector. At the same time, land access is one of the most noted barriers for emerging farmers to succeed. As noted in the [MDA's Emerging Farmers' Working Group 2022 Legislative Report](#):

"Land ownership and agricultural professions are a key pathway to building inter-generational wealth, both for family units and within communities. Opening pathways for Emerging Farmers can also revitalize rural communities and increase economic activities in Greater Minnesota."

Emerging Farmers include farmers and aspiring farmers who are:

- Women
- Veterans
- Persons with disabilities
- American Indian or Alaskan Natives
- Members of a community of color
- Young (35 and younger)
- Lesbian, gay, bisexual, transgender, queer, intersex, or asexual (LGBTQIA+)
- Urban (reside in cities with a population over 5,000 or within the boundaries of federally recognized tribal land regardless of population size)
- and any other emerging farmers as determined by the commissioner

Funding Availability

The Minnesota State Legislature approved \$1 million for fiscal year 2024 Down Payment Assistance Grants to Minnesota farmers earning less than \$250,000 per year in gross agricultural sales. Applications will remain valid for purchases **closing within six months after grant approval** or until June 30, 2024, whichever is sooner.

The RFA expects to award approximately 66 grants in this funding cycle, dependent on size of grant requests. The RFA will award these grants using a random **lottery process, with preference given to emerging farmers**. If you are not an emerging farmer, you may still apply.

Applications will be accepted from July 1 to July 31, 2023. The RFA will make award decisions in early to mid-August. The Minnesota Legislature has appropriated an additional \$1 million for one more round of this grant for fiscal year 2025 (July 2024 to June 2025).

Eligibility

Applicants must:

- Be an individual. (Farms structured as LLCs, partnerships, non-profits, and other businesses must apply and purchase land as an individual. Loans may be in the business name if the individual is on the deed.)
- Be a resident of Minnesota.
- Gross less than \$250,000 from the sale of farm product in the most recent tax year.
- Applicants and their spouses must have not previously had any direct or indirect ownership in farmland or other agricultural property (hog barn, commercial greenhouse, etc.).
- Plan on providing most of the day-to-day physical labor on the farm.
- Plan on owning the farmland for at least five years. (Awardees who do not own and farm the land for at least five years will pay a penalty to the commissioner equal to 20% of the grant amount for each year that is applicable.)
- Be in good standing with the state of Minnesota:
 - No back taxes owed.
 - No defaults on Minnesota state-backed financing for the last seven years.
 - Acceptable performance on past MDA grants.
 - Compliant with current state regulations.
- Must not have been convicted of a state or federal criminal offense related to a state grant agreement.

Eligible Purchases

Transactions must:

- Be the purchase of farmland (tillable acres, commercial greenhouse, hog barn, etc.).
- Be within the borders of the state of Minnesota.
- Be for purchases closed **after** approval of the application.
- Be completed within six months after application approval or June 30, 2024, whichever is sooner.

NOT Eligible

Ineligible transactions include but are not limited to:

- Farmland purchases made before approval of the application.
- Purchases for anything other than farmland.
 - Note: If your purchase has a home or other non-agricultural improvement that is okay, but the appraisal value of the home will be subtracted from the farm price.
 - The value of agricultural outbuildings may be included in the farm price.

Matching Funds

The Down Payment Assistance Grant requires each award to be matched with at least \$8,000 of other funding. Matching funds can be cash, loans, contract for deed, other grants, or any combination of these and other funding. The match does not need to be applicant cash.

This means, to receive the full \$15,000 grant maximum, an applicant must provide at least \$8,000 of alternate funding for the purchase. If the applicant is providing less than \$8,000, the maximum grant award will be equal to the amount they provide.

Examples

Purchase Price	Applicant Cash	Other Sources	Grant Amount
\$400,000	\$5,000	\$380,000 loan	\$15,000
\$25,000	\$0	\$10,000 contract for deed	\$15,000
\$15,000	\$2,500	\$5,000 other grant	\$7,500

If approved, applicants must be able to provide documentation (approval letter, loan estimate, etc.) for other sources of funding and financing for the purchase.

How to Apply and Grant Timeline

Grants will be awarded through a random lottery process, with preference given to emerging farmers. Applications will **open on July 1, 2023, and close at 11:59 p.m. on July 31, 2023**. The random lottery drawing for awardees will take place in early August. You can review application questions on the last page of this document.

Apply Two Ways

1. Complete the online application on the website below. No pre-registration or account is required.
2. Email a PDF application to RFA.loans@state.mn.us. PDF applications will be available on the website below. The RFA must receive your email between July 1 and July 31. Applications emailed before or after this time will not be eligible.

mda.state.mn.us/down-payment-assistance-grant-program

You will receive a confirmation email after submitting your application. **The RFA is not responsible for any technical or logistical problems resulting in not receiving your application on time.** It is the responsibility of the applicant to ensure that the RFA receives your application. **Contact the RFA if you do not receive a confirmation email after submitting your application:** 651-201-6316, RFA.loans@state.mn.us.

You may request a mailable copy of the application by calling 651-201-6316 or emailing RFA.loans@state.mn.us. However, we strongly recommend online or email applications to avoid potential mail delays. Mailable applications will be considered received on the date they are received at the RFA's office. The RFA is not responsible for any delays in the mailing process.

After Approval

If approved, applicants **must close their farm purchases within six months after approval** or by June 30, 2024, whichever is sooner. The RFA will award initial approvals in mid-August and may award approvals to applicants on the waitlist anytime between mid-August and June 2024 if initial awardees cancel or forfeit their grant awards.

If approved, applicants must provide:

- Purchase agreement (can be signed before or after application approval).
- Approval letter, loan estimate, or other proof of secured funds for the purchase.
- Most recent federal tax filing.

After approval, the RFA will issue grantees an approval letter with the grant award amount, to share with lenders as needed. Grantee will receive funds as an Electronic Funds Transfer (EFT) or check before closing the purchase.

Example Timeline

1. Applicant begins loan application process with bank or Farm Service Agency (FSA) and finds farmland to purchase.
2. Applicant applies for Down Payment Assistance Grant.
3. The RFA approves application, and grantee receives approval letter valid for six months.
4. Within 6-month approval period:
 - a. Applicant provides copies of purchase agreement, loan approval, and Schedule F to the RFA.
 - b. Applicant signs grant contract with the RFA.
 - c. Applicant receives grant funding from the RFA.
 - d. Farmland purchase closes.
5. Applicant sends sale settlement statement to the RFA.

How to Submit Questions

Applicants may submit questions by emailing RFA.loans@state.mn.us or calling 651-201-6316.

Application Review Policies

Review and Award Process

The RFA will review all complete applications submitted between July 1 and July 31, 2023, for eligibility. All eligible applications will be placed in a randomized lottery to determine the order in which grants are awarded. Regardless of the lottery order, emerging farmers will be given preference over non-emerging farmers.

If funding remains after the RFA has awarded grants to all eligible emerging farmer applicants, the RFA will award as many grants as funding allows to applicants who are not emerging farmers in the order of their lottery placement. Lottery procedure will be developed with consultants from the Minnesota State Lottery and published in a separate document.

Applicants will be notified of award decisions in early to mid-August.

Conflicts of Interest

State grant policy requires that steps and procedures are in place to prevent individual and organizational conflicts of interest, both in reference to applicants and reviewers ([MINN. STAT.16B.98 \(Grants management process\)](#) and [Conflict of Interest Policy for State Grant-Making, 2022 \(Word\)](#)).

Organizational conflicts of interest occur when:

- A grantee or applicant is unable or potentially unable to render impartial assistance or advice to the MDA due to competing duties or loyalties.
- A grantee's or applicant's objectivity in carrying out the grant is or might be otherwise impaired due to competing duties or loyalties.

In cases where a conflict of interest is suspected, disclosed, or discovered, the applicants or grantees will be notified and actions may be pursued, including but not limited to disqualification from eligibility for the grant award or termination of the grant agreement.

Privacy Notice and Data Classification

The information provided by an applicant will be used to assess the applicant's eligibility to receive a grant under the Down Payment Assistance Grant Program. The decision to apply for this grant is voluntary, and applicants are not legally required to provide any of the requested information. Applicants may decline to complete this application without any legal consequence. However, only completed applications will be considered for a grant; incomplete applications will not be considered.

Access to private or nonpublic data submitted by an applicant is limited to parties authorized by law to access it, including but not necessarily limited to MDA staff and contractors with a valid work assignment to access the data, parties authorized by the applicant, parties identified in a valid court order or federal subpoena, Minnesota Management and Budget, Minnesota Department of Administration, the state auditor, and the legislative auditor. If necessary, the MDA may also share the data with law enforcement or the Office of the Attorney General.

Procedure for Claiming Protection of Trade Secrets: Trade secret information is classified as not public data. In order to qualify as trade secret information, the data in question must be provided to the MDA by the affected person (i.e. the data must be about the applicant) and otherwise meet the legal definition found in [Minn. Stat. § 13.37, subd. 1\(b\)](#). In order for an applicant to assert trade secret protection for data submitted as part of this application: the applicant must: 1) clearly identify the specific formula, pattern, compilation, program, device, method, technique or process that the applicant believes to be trade secret information; 2) describe what efforts the applicant takes to maintain the secrecy of the data; and 3) adequately explain how the data derive(s) independent economic value from not being generally known to, and not readily ascertainable by proper means by, other persons. Merely asserting trade secret protection does not, in and of itself, classify the data in question as not public; determining what data meet the definition of trade secret information is ultimately the legal responsibility of the MDA, and the MDA cannot guarantee that data identified as trade secret information by an applicant will be classified as such. If the MDA determines that data do not meet the definition of trade secret information, the data in question will be available to the public unless the applicant secures a court order saying otherwise.

Every person, organization, or corporation applying for grants in the state of Minnesota must comply with [Minn. Stat. § 270C.65, Subd. 3](#), and other applicable law. Under this law, the Grantee consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number, already provided to the State, to federal and state tax agencies and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state tax laws which could result in action requiring the Grantee to file state tax returns and pay delinquent state tax liabilities, if any.

Requirements for Grant Recipients

Accountability and Reporting

Grantees are required to provide a settlement statement for their farmland purchase within three business days of closing. Grantees may be required to provide additional documentation for authorization purposes.

Follow-up reports are required to help us determine the long-term impacts of the grant. Grantees are required to respond to requests for follow-up information for up to five years beyond the term of the grant agreement. Failure to respond to these in a timely manner may impact your ability to secure future funding from the MDA.

Grant Award Agreement and Payments

Grant contract agreement templates are available for review at [Office of Grants Management Policies, Statutes, and Forms/Forms and FAQs tab](#).

Upon approval of an application and prior to receiving payment, the applicant is required to do the following:

- Register as a vendor in SWIFT, the state's accounting system, and submit other required documentation within 30 days of award notification.
- Sign a Grant Contract Agreement indicating their intention to complete the proposed tasks. The agreement also authorizes the MDA to monitor the progress of the project. The grant award document must be signed within 10 business days of being sent to the grantee.

Eligible expenses may only be incurred after the contract has been signed by all parties. Grantees agree that for each year they do not own and farm the land during the following five-year period, that they will pay a penalty to the commissioner equal to 20% of the grant amount.

Affirmative Action and Non-Discrimination Policy

The grantee agrees not to discriminate against any employee or applicant for employment because of race, color, creed, religion, national origin, sex, marital status, status in regard to public assistance, membership or activity in a local commission, disability, sexual orientation, or age in regard to any position for which the employee or applicant for employment is qualified ([Minn. Stat. 363A.02](#)). The grantee agrees to take affirmative steps to employ, advance in employment, upgrade, train, and recruit minority persons, women, and persons with disabilities.

The grantee must not discriminate against any employee or applicant for employment because of physical or mental disability regarding any position for which the employee or applicant for employment is qualified. The grantee agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship ([Minnesota Rules, part 5000.3500](#)).

The grantee agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the [Minnesota Human Rights Act](#).

Audits of Project

Per [Minn. Stat. 16B.98, subdivision 8](#), the grantee's books, records, documents, and accounting procedures and practices of the grantee or other party that are relevant to the grant or transaction are subject to examination by the granting agency and either the legislative auditor or the state auditor, as appropriate. This requirement will last for a minimum of six years from the grant agreement end date, receipt, and approval of all final reports, or the required period to satisfy all state and program retention requirements, whichever is later.

Application Definitions and Questions

Definitions

Minnesota Resident means the applicant has established a permanent home within Minnesota's borders and has no present intention of moving outside the state.

Good Standing with the state of Minnesota:

- No back taxes owed.
- No defaults on Minnesota state-backed financing for the last seven years.
- Acceptable performance on past MDA grants.
- Compliant with current state regulations.

Direct Ownership is when an individual is the direct owner of farmland, shareholder in an operation that includes farmland, or the beneficiary of a life estate that includes farmland. **Indirect Ownership** is any interest or traceable interest in farmland.

Emerging Farmers include farmers or aspiring farmers who are **women, veterans, persons with disabilities, American Indian or Alaskan Natives, members of a community of color, young** (35 and younger), lesbian, gay, bisexual, transgender, queer, intersex, or asexual (**LGBTQIA+**), **urban** (reside in cities with a population over 5,000 or within the boundaries of federally recognized tribal land regardless of population size), and any other emerging farmers as determined by the commissioner.

If you are not included in one of these groups and would like to request consideration as an emerging farmer, you may write a letter to the Commissioner of Agriculture, justifying how you are an emerging farmer. Approval of new groups will be posted publicly on the MDA's [Emerging Farmer webpage](#).

Application Questions

Farmer Information

- Applicant Name and Spouse's Name (if applicable)
- Current Mailing Address
- Age at time of application (optional)
- Please check yes or no:
 - I am a Minnesota resident.
 - I will be purchasing the farmland as an individual or married couple (LLCs, partnerships, non-profits, corporations, and other businesses are not eligible).
 - I am in good standing with the state of Minnesota.
 - The farmland is located within Minnesota borders.
 - I will provide most of the physical labor and management for the farm I wish to purchase.
 - I agree that for each year I do not own and farm the land during the following five-year period, I will pay a penalty to the commissioner equal to 20% of the grant amount.
 - Have you or your spouse ever had direct or indirect ownership in farmland or other agricultural property (tillable acres, hog barn, commercial greenhouse, etc.)?
 - Did you gross more than \$250,000 from the sale of farm product in the most recent tax year?
 - Have you been convicted of criminal offense related to a state grant agreement?
 - Are you considered an Emerging Farmer? (Based on the definition above)

Purchase Information

- Briefly describe the type of farming operation you will be running.
- **If available**, please provide the following information about the farmland you are purchasing.
 - County
 - Number of acres
 - Sale price
 - Name of all sellers(s)
 - Estimated closing date
 - Legal description (section/sub-section, section, township, range)
 - *E.g., SW ½ of NW ¼, Sec. 20, Township 100, Range 50*
- **If available**, does this farm purchase include a home or other non-agricultural improvement?
- **If available**, please provide financing amounts, including as applicable:

	Amount	Bank, Institution, or Grant Name
Buyer cash		-
This grant		-
Loan		
Loan		
Other grant		
Other source		
Other source		



625 Robert Street North, Saint Paul, MN 55155-2538
www.mda.state.mn.us

Rural Finance Authority (RFA) | RFA.Loans@state.mn.us | 651-201-6316

APPLICATION INSTRUCTIONS

Down Payment Assistance Grant – Fiscal Year 2024

Application Part A—Farmer Information

Complete the farmer information section and answer the yes/no eligibility and demographic questions using the definitions below. Note: Applicant name must match the purchaser of the land.

Definitions

Minnesota Resident means the applicant has established a permanent home within Minnesota's borders and has no present intention of moving outside the state.

Good Standing with the State of Minnesota:

- No back taxes owed.
- No defaults on Minnesota State-backed financing for the last seven years.
- Acceptable performance on past MDA grants.
- Compliant with current state regulations.

Direct Ownership is when an individual is the direct owner of farmland, shareholder in an operation that includes farmland, or the beneficiary of a life estate that includes farmland. **Indirect Ownership** is any interest or traceable interest in farmland.

Emerging Farmers include farmers or aspiring farmers who are **women, veterans, persons with disabilities, American Indian or Alaskan Natives, members of a community of color, young** (35 and younger), lesbian, gay, bisexual, transgender, queer, intersex, or asexual (LGBTQIA+), **urban** (reside in cities with a population over 5,000 or within the boundaries of federally recognized tribal land regardless of population size), and any other emerging farmers as determined by the commissioner.

Application Part B – Purchase Information

Complete the farmland purchase information section with as many details as you have for the land you intend to purchase. If you do not have some this information, you may leave questions blank; however, you will need to be prepared with all this information and close on your farmland purchase within six months if your application is approved. If your grant application is approved, you will also need to provide copies of:

- Purchase agreement
- Schedule F or a signed statement confirming no farm sales to report
- Loan estimates or other proof of secured financing
- Other documentation required as needed to ensure the applicant qualifies for this program

Applications are open between July 1 and July 31. Submit your application via email :

RFA.loans@state.mn.us

This application is also available as an online form open from July 1 to July 31 at:

www.mda.state.mn.us/down-payment-assistance-grant-program

The RFA will award these grants using a random **lottery process, with preference given to emerging farmers**. Approvals will remain valid for purchases closing within 6 months or until June 30, 2024, whichever is sooner.

APPLICATION • Down Payment Assistance Grant – FY24**A. Farmer Information**

Name:	Spouse' Name (if applicable):		
Current Mailing Address:			
City:	State:	Zip:	
Age at time of application (optional):	County:		
Phone:	Email:		

Please Check (YES) or (NO) Boxes

I am a Minnesota Resident.		YES		NO
I will be purchasing the farmland as an individual (LLCs, partnerships, non-profits, corporations, and other businesses are not eligible)		YES		NO
I am in good standing with the State of Minnesota.		YES		NO
The farmland is located within Minnesota's borders.		YES		NO
I will provide the majority of physical labor and management for the farm I wish to purchase.		YES		NO
I agree that for each year I do not own and farm the land during the following five-year period, I will pay a penalty to the commissioner equal to 20 percent of the grant amount.		YES		NO
Have you or your spouse ever had direct or indirect ownership in farmland or other agricultural property (tillable acres, hog barn, commercial greenhouse, etc.)?		YES		NO
Did you gross more than \$250,000 from the sale of farm product in the most recent tax year?		YES		NO
Have you been convicted of criminal offense related to a state grant agreement?		YES		NO
Are you considered an Emerging Farmer?		YES		NO

B. Purchase Information

Briefly describe the type of farming operation you will be running.

If available, please provide the following information about the farmland you are purchasing.

County:	Number of Acres:	Sale Price:		
Name of all sellers(s):	Estimated closing date:			
Legal description (section/sub-section, section, township, range) <i>Ex. SW ¼ of NW ¼, Sec. 20, Township 100, Range 50:</i>				
If available, does this farm purchase include a home or other non-agricultural improvement?		YES		NO

If available, please provide financing amounts, including as applicable

Type	Amount	Bank, Institution or Grant Name	Type	Amount	Source
Purchaser Cash	\$		Other Grant	\$	
Loan	\$		Other Grant	\$	
Loan	\$		Other Source	\$	
This Grant	\$		Other Source	\$	

I certify that the above information and any supplemental information is correct and true to the best of my knowledge. Furthermore, I will adhere to the Down Payment Assistance Grant Program Act and Regulations.

Signature / Date:

Privacy Notice: The information provided by an applicant will be used to assess the applicant's eligibility to receive a Down Payment Assistance Grant from the MDA. The decision to apply for this grant is voluntary, and applicants are not legally required to provide any of the requested information. Applicants may decline to complete this application without any legal consequence. However, only completed applications will be considered for a grant; incomplete applications will not be considered.

Access to private or nonpublic data provided as part of this application is limited to those authorized by law, including but not necessarily limited to MDA staff and contractors with a valid work assignment to access the data, parties authorized by the applicant, parties identified in a valid court order or federal subpoena, Minnesota Management and Budget, Minnesota Department of Administration, the state auditor, and the legislative auditor. If necessary, the MDA may also share the data with law enforcement or the Office of the Attorney General.

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Lance Nistler

(b) County of Residence of First Listed Plaintiff **Beltrami County**
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

James V. F. Dickey, Upper Midwest Law Center, 8421
Wayzata Boulevard, Suite 300, Golden Valley, Minnesota
55426. 612-428-7000

DEFENDANTSTIM WALZ, in his official capacity, and THOM PETERSEN,
in his official capacity

County of Residence of First Listed Defendant **Ramsey**
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. §§ 1981 and 1983

Brief description of cause:

Minnesota preference for minority farmers in awarding and administering grant funds violates the Fourteenth Amendment.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

Jan 24, 2024

SIGNATURE OF ATTORNEY OF RECORD

James V. F. Dickey

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE