



Soil and Water Conservation Committee

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State Committee Meeting
NYS Department of Agriculture and Markets
10B Airline Drive
Albany, NY
Pride of New York Room (1st Floor)
November 10, 2015

- 10:00 a.m. Call to Order / Introductions**
- 10:05 Review and Approve Minutes
- 10:10 Correspondence – Brian Steinmuller
- 10:15 Ag NPS Abatement and Control Program – Bethany Bzduch
- Amendments
 - Round 22 Timeline (Attached)
 - Round 22 RFP Review
 - Procurement Policy and Form Review and Consideration of Approval (Attached)
- 11:00 AEM Report – Greg Albrecht
- AEM Base Program Summary
 - On-going and new AEM Program Initiatives
- 11:30 Climate Resilient Farming Program Update – Gabriella Spitzer
- RFP Update and Review of Q&A
- 12:00 Working Lunch**
- 12:45 State Aid to Districts Program – Jennifer Clifford
- Performance Measure Summit Report and Consideration of Recommendations (Recommendations will be available at the meeting)
- 1:15 Conservation Approval Authority Report – Tim Clark
- 1:30 Annual Plan of Work Approval – Brian Steinmuller
- 1:35 Partnership Reports / Advisory Member Reports / Public Comments
- 2:30 Proposed Next Meeting Date and Location: December 15, 2015, Utica.



Timeline for Development and Release of Round 22 RFP **AgNPS Grant Program**

August/September 2015 – Hold TAC meeting to discuss AgNPS Program policies / procedures and make recommendation for any substantial changes to program policies and / or RFP

November 2015 – Present RFP to SWCC for review and approval

December 2015/January 2016 – Release RFP via Grants Gateway

February 2016 – Hold RFP training webinar on proposal submission and other significant changes

February 2016 – Initiate Q&A on Grants Gateway and/or Department Website

March 2016 - Conclude Q&A to allow time for the SWCC review

March 2016 – Present Q&A to the SWCC for review

April 2016 - Proposal submission date (Monday 4:30 p.m.), review proposals for eligibility

Late April 2016 - Hold TAC Meeting of reviewers to discuss review process and format

Late June 2016 – Scores due back to the SWCC Albany Office

Late June/Early July 2016 – Hold TAC Meeting of reviewers to discuss scores

July 2016 – Present ranked list to the State Committee for approval

July/August 2016 – Have final ranked list and project descriptions ready for release of awards

August/September 2016– Upon release of awards, send out plan of work materials

October 2016 – Receive and review plans of work and develop contracts

January 2017 – Have fully executed contracts in place

Agricultural Nonpoint Source Grant Program

Procurement Guidelines

These guidelines apply to BMP implementation projects. Procurement records must be maintained for all BMPs installed by a contractor, the landowners (or farm operators) or SWCDs. Procurement records should be filled out and updated throughout the course of the project. Once quotes are obtained, they should be entered into the Price Solicitation section of the BMP Procurement Record and signed by the Landowner. Upon project completion, the BMP Certification section of the BMP Procurement Record should be completed and signed by SWCD personnel with appropriate approval authority, NRCS personnel with appropriate job approval authority, or a NYS Licensed Professional Engineer (PE). If a PE is certifying the project an additional Engineer's Certification must be completed and signed. Completing these forms as the project progresses will eliminate the need to back track and will help the close out process be more efficient.

These procurement guidelines do not eliminate the need for appropriate contracts between the landowner and contractor. Districts should ensure that participating landowners are aware of procurement requirements, and contracts between Districts and landowners should have a provision for withholding payment for non-compliance with procurement guidelines. If a project involves multiple SWCDs, the project sponsor must maintain quote records or ensure that other Districts are recording quotes appropriately. See Guidance Manual Appendix* for the Sample Procurement Record and Engineer's Certification Form.

In order to be eligible for reimbursement, costs must be incurred within the start and end dates of the contract. Project expenditures which occur prior to the approval of the contract by the State Comptroller may not be reimbursed. Therefore, Districts are advised not to incur any expenditure for which State reimbursement will be sought until the contract is approved.

A completed BMP Procurement Record and any receipts or paid invoices shall be furnished upon completion of the project. When the landowners make purchases related to the contract, all invoices (marked paid with date and check number) and/or receipts, and cancelled checks shall be reviewed and filed by the sponsoring District. When paid invoices and/or receipts are submitted to the District by the Landowner, they should be entered into a Farm Expenditure Summary form. This will eliminate the need to do so during the close out process and will help to track project spending. See *Guidance Manual Appendix* for a sample Farm Expenditure Summary*.

District BMP Implementation

The New York State Soil & Water Conservation Committee (NYS SWCC) has determined that New York State Soil & Water Conservation Districts (SWCDs) are the Preferred Provider when constructing Best Management Practices (BMPs) funded through the New York State Agricultural Nonpoint Source Abatement & Control Grant Program (AG-NPS). Therefore, a SWCD shall be considered exempt from the procurement bidding process if performing the BMP Implementation work itself. This exception allows a SWCD to perform the work, but does not allow the SWCD to act as a General Contractor and negotiate with subcontractors to do the work. This exemption still requires that SWCDs abide by the documentation requirements set forth in the procurement guidelines. A completed BMP Procurement Record and an invoice from the SWCD shall still be furnished upon completion of the project.

This exemption does not extend to the completion of BMPs by landowners or third party contractors. For example, if an AG-NPS project has funded the construction of six (6) BMPs and the SWCD intendeds to only construct two (2) of those BMPs, the remaining four (4) BMPs would be subject to the procurement guidelines as described in this Guidance Manual.

If a SWCD does not have the necessary in-house expertise and/or equipment to perform the BMP Implementation work, the SWCD is required to follow the general procurement guidelines. It should be noted

that the implementation of this exemption policy will be decided by each District Board based on that District's capacity and need to fulfill the role of contractor.

Any purchases made by the SWCD directly should be in compliance with the District procurement policy.

A District will be able to perform work with the exemption from procurement bidding process for BMPs anticipated to exceed \$20,000 under these conditions:

1. The NYSSWCC/Department will publish annual equipment/operator rates in the Plan of Work Memo
2. The District proposes to perform work in the Plan of Work at or under the published rates.
3. The NYSSWCC/Department verifies that the District rates are at or under the rates approved by the NYSSWCC/Department.

If the above conditions are not met, the District would have to put the project(s) out for quotes following the general procurement guidelines as described.

3rd Party Contractor BMP Implementation

SWCDs shall ensure that landowners are keeping expenses reasonable by requiring, for any BMP installed by a 3rd party contractor:

- For items estimated at less than \$20,000, collect and record one verbal/written quote
- For items estimated at \$20,000 or over, collect and record three written quotes. If three quotes cannot be obtained, the landowner/District should record which contractors declined to bid and why.
- Additional requirements as the SWCD deems necessary

It is the responsibility of the Landowner to abide by the provisions above and obtain the necessary procurement information. However, the District has the option to assume the responsibility of procuring quotes on the Landowner's behalf.

A procurement that is valued at less than \$20,000 is determined to be a simple purchase and does not require multiple quotes; however, a procurement form must still be completed. This includes projects that will be installed by the landowner or the District. See sections entitled, landowner BMP Implementation and District BMP Implementation for additional guidance.

Any purchases made by the SWCD directly should be in compliance with the District procurement policy. In accordance with the General Municipal Law, Article 5-A, Section 103 "Purchases of commodities, services or technology shall not be artificially divided for the purpose of satisfying the discretionary buying thresholds established by this subdivision." SWCDs shall retain documentation of all quotes and certify on the procurement record that the price solicitation requirements have been met. SWCDs shall retain documentation of all quotes and certify on the procurement record that the price solicitation requirements have been met. Quotes should be retained on all cumulative components associated to each entire BMP and/or system. BMP systems or components should be quoted comprehensively whenever possible. Phasing BMP components or systems with one contractor in order to avoid obtaining three quotes will not be accepted.

If bid/quotes are obtained, the landowner must select the lowest bid/quote unless there is sufficient justification to choose a different bid. The justification must be documented/recorded with the quote records. If there is not sufficient justification, cost share will be based on the lowest bid/quote. Districts are encouraged notify and work with their Regional AEA when these situations occur to properly document the scenario. Sealed bids may also be obtained. Once a contractor has been chosen, notification should be sent to other bidding contractors as well.

Landowner BMP Implementation

If a landowner is proposing to act as the contractor, the District must assume responsibility of the procurement process. To ensure fair and open competition, it is crucial that the District act as the coordinator of this process and follow their local procurement policy in addition to the guidance provided herein.

Upon receipt of the plans, specifications, and final cost estimate from the project designer, the District shall review the design with the landowner. With the landowner's concurrence to proceed, the District seek quotes from the landowner and two additional contractors. The District shall keep a log of prospective contractors who were contacted to provide a quote, including the landowner.

A site visit should be conducted with the project designer to answer questions and draw attention to site conditions. Contractors, including the landowner, should not be able to alter quotes during or after the quotes are obtained. The SWCD should keep a log of all quotes and assure conformity with the bidding procedures and contract terms. The SWCD shall determine which quote is the responsible low quote, select the quote, and notify the landowner and all contractors of the award decision.

**Agricultural NPS Abatement & Control Grant Program
Procurement Record**

Section I: Project Information

Landowner and /or
Operator:
Address:
Phone Number:

AEM GIS No.:

Funding Agreement No.:

Section II: BMP Certification

The design and implementation of the following BMP(s) were completed in accordance with AgNPS Program requirements and meets/exceeds all applicable standards and specifications.

NRCS Conservation Practice Standard No.	BMP System Installed (from Ag BMP Catalog)	Units Completed	Date Approved	Approved by <i>Signature & Title*</i> <i>*If PE, please complete the Consultant Engineer's Certification form</i>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Section III: Price Solicitation Certification

The Department of Agriculture & Markets requires that the following minimum requirements are maintained for any BMP installed by a 3rd party contractor. For any component estimated at over \$20,000, an attempt to solicit 3 written quotes is recorded.

The Department of Agriculture & Markets requires that the following minimum requirements are maintained for any BMP installed by a landowner (or farm operator): For any component estimated at over \$20,000, the District must assume responsibility of the procurement process.

The SWCD sponsoring the project must ensure that quotes and/or bids are recorded. The attached form is recommended for capturing this information. Please certify that price solicitation records have been maintained and include record with final report:

SWCD Representative Signature: _____

Date: _____

Price Solicitation Record

The Landowner and/or Operator shall seek prices or quotes from capable contractors and log the information in the following table.

- For items estimated at less than \$20,000, at a minimum complete for one contractor.
- For items estimated at \$20,000 or over, at a minimum record three written quotes.

If three quotes are not available, list the contractors who were contacted and declined to provide a quote.

The lowest quote must be selected unless sufficient justification is provided. Please attach justification if applicable.

BMP System or BMP Component written quotes/bids verbal quotes simple purchase SWCD Exemption

	Contractor #1	Contractor #2	Contractor #3
Contractor's Name			
Address			
Telephone			
Price Submitted			

I have reviewed the above submitted price quotes and have selected as the lowest responsible offer at a price of \$.

Landowner's and/or Operator's Signature: _____ Date: _____

BMP System or BMP Component written quotes/bids verbal quotes simple purchase SWCD Exemption

	Contractor #1	Contractor #2	Contractor #3
Contractor's Name			
Address			
Telephone			
Price Submitted			

I have reviewed the above submitted price quotes and have selected as the lowest responsible offer at a price of \$.

Landowner's and/or Operator's Signature: _____ Date: _____

BMP System or BMP Component written quotes/bids verbal quotes simple purchase SWCD Exemption

	Contractor #1	Contractor #2	Contractor #3
Contractor's Name			
Address			
Telephone			
Price Submitted			

I have reviewed the above submitted price quotes and have selected as the lowest responsible offer at a price of \$.

Landowner's and/or Operator's Signature: _____ Date: _____

The SWCD has reviewed the Landowner's and/or Operator's solicitation for prices/quotes and his/her selection of a contractor and the process is

Approved Disapproved Reason for Rejection Not Applicable

The SWCD expressed interest in acting as a contractor for the construction of a BMP System or BMP Component above the \$20,000 threshold and invoked their procurement exemption. The SWCD assures that hourly rates used for equipment and operators are at or under the rates approved by the NYSSWCC.

Yes Not Applicable

The landowner/operator expressed interest in acting as a contractor for the construction of a BMP System or BMP Component above the \$20,000 threshold and the District assumed responsibility of the procurement process.

Yes Not Applicable

[THIS DRAFT DOCUMENT IS PROPOSED ONLY AND HAS NOT BEEN ACTED UPON BY THE STATE SOIL AND WATER CONSERVATION COMMITTEE. THIS DOCUMENT IS MADE AVAILABLE TO THE PUBLIC PURSUANT TO OPEN MEETINGS LAW §103(e)]

SWCD Representative Signature: _____ Date: _____