



# Agriculture and Markets

***Round 15 Farmland Protection Implementation Grants (FPIG)***

***REQUEST FOR APPLICATIONS (RFA)***

## Applicant Webinar – Round 15 FPIG RFA – Option Agreement Projects

Welcome!

- For audio, please call ... **1-844-633-8697**
- Cisco Unified MeetingPlace ID:
  - **Tuesday, March 20, 2018 = 641 925 580** (followed by #)
  - **Thursday, September 20, 2018 = 643 365 759** (followed by #)
- This webinar begins promptly at 10am. We'll be getting underway shortly.
- When the webinar starts, **please mute ( \*6 ) your phone until the Q&A period.** Thank you for your cooperation!

## **Applicant Webinar – Round 15 FPIG RFA – Option Agreement Projects**

### **WELCOME**

(~5 minutes)

#### **Eligible Applicants for this RFA**

(~15 minutes)

#### **Eligible Projects for this RFA**

- What is an Option Agreement?
- Region-specific eligibility criteria

(~5 minutes)

#### **Match Contribution Requirements & Associated Stipulations**

(~35 minutes)

#### **Overview of Project Deliverables ~ Disbursements**

(~30 minutes)

#### **Sample Application**

(~20 minutes)

#### **Why Use Option Agreements?**

### **ADJOURN**

**NOTE:** Questions must be submitted in writing and you may do so at any time with no deadline. Answers will be periodically posted to all questions received.

Please send your questions via email to: [david.behm@agriculture.ny.gov](mailto:david.behm@agriculture.ny.gov)

**Eligible Applicants for this RFA**

- (1) any county agricultural and farmland protection board in a county with an approved county agricultural and farmland protection plan

**OR**

- (2) any municipality which has in place a “local farmland protection plan”  
*(refer to pages 4-5 of the RFA for more info about “local plan”)*

**OR**

- (3) any not-for-profit conservation organization that will assist a county or municipality to implement a county or municipal agricultural and farmland protection plan approved by the commissioner

**OR**

- (4) any soil and water conservation district that will assist a county or municipality to implement a county or municipal agricultural and farmland protection plan approved by the commissioner

## **Eligible Projects for this RFA**

### ***Option Agreements: What are they?***

Agreement between landowner(s) and Option Holder for a short term during which an appraisal is acquired to estimate the value of development rights to set the purchase price of the proposed perpetual conservation easement on the subject Viable Agricultural Land. The Option Holder is the entity that will hold the conservation easement if the option is exercised to purchase it.

**NOTE:**

*The Department has prepared a model Option Agreement that must be used “as is” in all projects.*

### ***Region-specific Eligibility Criteria:***

- (1) minimum acreage (i.e., size of Option Agreement Project)
- (2) minimum percentage (%) for Extent of Active Agricultural Production
- (3) minimum acreage for Extent of Prime Soils (not “Prime if drained”)

**NOTE:**

*Each minimum amount (acres or %) is the average amount associated with farmland protection implementation activities that have been awarded in each region since October 2014. Those awarded projects arose from:*

- *Round 13 Farmland Protection Implementation Grants (FPIG) Request For Proposals (RFP),*
- *Hudson Valley Agricultural Enhancement Program (HVAEP) RFP,*
- *Round 14 FPIG-RFP, and*
- *Legislative appropriations for the U.S. Army Compatible Use Buffer (ACUB) program associated with Ft. Drum.*

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State Contribution Limits and Local Contribution Requirements				
Maximum State Award	Maximum State Contribution	Other “Caps” on State Contribution	Minimum Local Match	
			%	Cash
\$500,000	87.5% of total project costs	\$700 per acre per year toward Option Agreement payment	12.5% of total project costs <i>(solely from landowner)</i>	None
\$500,000	75.0% of total project costs	\$700 per acre per year toward Option Agreement payment	25.0% of total project costs	25.0% of option payment amount to be paid to landowner

## Project Deliverables – Option Agreement Projects

### Preliminary Review

**All** Option Agreement Projects must receive the Department’s preliminary approval before proceeding to compile a complete project file. The project deliverables required for a preliminary review are described as follows:

1. **Title report plus title curatives letter<sup>2</sup>** from Option Holder attorney explaining how clear title will be ensured for the subsequent proposed conservation easement transaction; and
2. Draft version of [Option Agreement](#) with all exhibits attached thereto.

*PLEASE NOTE:*

- *Page 2: Purchase Price for Property Interest*
- *Page 3: Condition of Property*
- *Page 4: Owner’s Inability to Convey Property Interest and Limitations on Liability*

These project deliverables must be submitted within six (6) months of state approval of the funding agreement.

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<sup>2</sup> Applicant shall submit to the **Department** a title report issued by a New York State licensed title insurance company which proves that the Owner owns fee title to the subject property and that such ownership is insurable. The title report must include at least a 40-year search for all liens and encumbrances which may affect the property. The applicant does not need to provide a title insurance commitment showing clear title to the property, free of all liens and encumbrances. The **Department** will review the title report to ensure that the Owner owns fee title to the property which is insurable; and provide comments to the applicant. The **Department** may request, and the Applicant shall provide, further information about any liens and encumbrances which are identified in the title report. The **Department’s** comments shall include that the Owner must provide clear title upon the conveyance of the conservation easement.

**Project Deliverables – Option Agreement Projects** *(continued)*

**Project File**

After the Department has given its preliminary approval of the proposed Option Agreement Project, the local project manager shall submit to the Department the required project deliverables:

1. **Appraisal report** (one per conservation easement to be submitted as one (1) digital file (PDF) plus two (2) paper copies of each appraisal report); and
2. [Landowner Intent to Enter Into a Conservation Easement Purchase Option Agreement.](#)

These project deliverables must be submitted within ten (10) months of state approval of the funding agreement.

**Project Deliverables – Option Agreement Projects** (continued)

**Final Report**

After the Department approves the project file, a complete final report must be submitted by the local project manager to the Department within one hundred twenty (120) calendar days of receipt of interim payment #2. The project deliverables required for a final report review are as follows:

1. **Option Agreement (recorded version)**; and
2. **Closing Statement Spreadsheet** for Option Agreement Project (appropriate version; *either*: [Landowner Bargain Sale](#) or [Local Cash Match](#)).

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TIMING	MILESTONES / DELIVERABLES	SCHEDULED PAYMENT (State Contribution)
<b>Contract Approval Date</b>	<b>Department</b> notification to successful applicant of approval of funding agreement by New York State.	<b>Advance Payment</b> includes: <ul style="list-style-type: none"> <li>• Title report stipend (\$1,500)</li> <li>• Project partners' staff time (1/2 of state contribution)</li> <li>• Project partners' legal fees (1/2 of state contribution)</li> </ul>
<b>Month 1 to 6</b> (After <b>Department</b> notification of State approval of funding agreement)	<b>Submission for Preliminary Review:</b> <ul style="list-style-type: none"> <li>• Title report and title curatives letter</li> <li>• Draft version of Option Agreement with all exhibits</li> </ul>	
- -	<b>Department</b> Preliminary Approval of project.	<b>Interim Payment #1</b> includes: <ul style="list-style-type: none"> <li>• Appraisal (one per conservation easement)</li> <li>• Project partners' staff time (1/2 of state contribution)</li> <li>• Project partners' legal fees (1/2 of state contribution)</li> </ul>
<b>Month 6 to 10</b> (After <b>Department</b> notification of State approval of funding agreement)	<b>Submission of Project File for Review:</b> <ul style="list-style-type: none"> <li>• Appraisal report (one per conservation easement)</li> <li>• Landowner Letter of Intent</li> </ul>	
- -	<b>Department</b> approval of Project File.	<b>Interim Payment #2</b> includes: <ul style="list-style-type: none"> <li>• Balance of contract award, less Final Payment.</li> </ul>
<b>120 Calendar Days</b> (After receipt of Interim Payment 2)	<b>Submission of Final Report for Review:</b> <ul style="list-style-type: none"> <li>• Copy of recorded version of Option Agreement</li> <li>• Closing Statement spreadsheet</li> </ul>	
- -	<b>Department</b> approval of Final Report.	<b>Final Payment</b> (10% of award amount) upon <b>Department</b> approval of final report.

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### **SAMPLE Application** *(Yours need not be this long to receive an award.)*

To illustrate what a proposal might contain, please view:

- [Excerpt #1](#) (pages 1-16)
- [Excerpt #2](#) (pages 17-65)
- [Excerpt #3](#) (pages 66-89)

*PLEASE NOTE:*

1. *Page 71: Financial Worksheet (Local Cash Match example)*
2. *Pages 77-80: Supporting documentation for “Land only” Assessed Value of Acres*

## **Why Use Option Agreements?**

- Help your organization –
  - sort out which landowners have demonstrated to you that they are ready to proceed with a Purchase of Development Rights (PDR) transaction, and
  - prioritize your internal workload for future FPIG proposals for PDR projects, such as:
    1. those associated with an active Option Agreement
    2. those awarded for but not yet associated with an active Option Agreement
    3. those non-Option Agreement projects associated with otherwise pre-screened landowners deemed ready to proceed with a PDR transaction
    4. those non-Option Agreement projects associated with otherwise pre-screened landowners not yet deemed ready to proceed with a PDR transaction
    5. those associated with landowners not yet pre-screened whom are responding to a biennial RFP announcement
- Build relationships with landowners of high priority properties
- Help prepare landowner for subsequent PDR transaction –
  - Strategically target local stakeholders' outreach efforts during the Option Agreement period to educate participating landowners about tax benefits (tailored to stage-of-life or stage-of-business) or ownership transition considerations (tailored to inter-generational family transfer or acquisition by new/beginning farmer)
- Compile an internal easement workload commitment within your organization as to which projects proceed in what priority order
- Reward landowner readiness and demonstrate organizational readiness in subsequent FPIG proposal for a Conservation Easement Project

**Why Use Option Agreements?** *(continued)*

Property subject to an Option Agreement at the time of submitting the subsequent FPIG proposal for a Conservation Easement Project will receive additional bonus points if the proposal meets or exceeds the threshold score for that FPIG round.

The Department recognizes the risk that an awarded project may not result in the eventual conveyance of a conservation easement. However, we are willing to accept this risk because if the Option Agreement Project results in the conveyance of a conservation easement, the subsequently awarded PDR project will proceed faster and with greater predictability for all involved parties. In addition, that eventual PDR project will exhibit desirable characteristics consistent with those of previously awarded PDR projects.

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NOON      **ADJOURN**

### NOTE:

- Please remember to submit any questions in writing at any time.
- For your convenience, please send them via email to:  
[david.behm@agriculture.ny.gov](mailto:david.behm@agriculture.ny.gov)

Good luck!

*Cheers!*

