

REQUEST FOR PROPOSALS (RFP)

RFP 0248 - Agricultural Nonpoint Source Abatement and Control Program (ANPSACP)

New York State Department of Agriculture and Markets

Round 27 – Information for Applicants

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## **1. INTRODUCTION**

### **1.1 Overview**

This Request for Proposals (RFP) applies to proposals submitted for funding consideration from the Environmental Protection Fund (EPF).

The New York State Soil and Water Conservation Committee (State Committee) invites Soil and Water Conservation Districts, or groups of Districts acting jointly, to submit proposals for funding under the Agricultural Nonpoint Source Abatement and Control Program. Program funds are available for nonpoint source abatement and control projects that plan (AEM Tier III) or implement (AEM Tier IV) Agricultural Best Management Practice Systems on New York State farms. All projects must consist of activities that will reduce, abate, control, or prevent nonpoint source pollution originating from agricultural sources. Applications must be for ONE of the following: planning activities (AEM Tier III), OR implementation (AEM Tier IV).

### **1.2 Goal of the Program**

Led by the New York State Soil and Water Conservation Committee, in coordination with the Department of Agriculture and Markets, the goal of the Agricultural Nonpoint Source Abatement and Control Program is to reduce and or prevent the nonpoint source contribution from agricultural activities in watersheds across the state. The program utilizes the Agricultural Environmental Management (AEM) framework and provides cost-share funds through Soil and Water Conservation Districts for activities, plans and the implementation of Best Management Practices (BMPs) Systems, as defined in Section 3 of the Soil and Water Conservation Districts Law.

### **1.3 Available Funding**

The State Committee has made available approximately \$13 million for Round 27 competitive projects. Funding was appropriated in the State Fiscal Year 2020-2021 Budget and reappropriated in the State Fiscal Year 2021-2022 Budget.

### **1.4 Eligible Applicants**

Proposals for funding will be accepted from Soil and Water Conservation Districts, or a group of Districts acting jointly, who will be referred to as "Project Sponsors." Groups of Districts acting jointly should submit one application with one district assuming lead sponsor status. It will be the lead sponsor's responsibility to ensure the projects is completed and necessary reports are accepted and filed with the New York State Soil and Water Conservation Committee.

## **2. DESCRIPTION OF WORK TO BE PERFORMED**

### **2.1 Eligible Projects**

Applicants must propose to do **ONE** of the following:

- 1) conduct planning activities (AEM Tier III) **OR**
- 2) implement (AEM Tier IV) Agricultural BMP Systems.

## Planning

Applicants requesting State funding to conduct planning projects must have completed a current AEM Tier I inventory and an AEM Tier II assessment on all participating farms. Planning projects should follow the tiered planning process set forth in the current “AEM Base Program Manual,” as adopted by the State Committee and accessible on the State Committee’s SharePoint site. CNMP updates for regulated farm operations are not eligible for cost share through the Ag Non-Point Source Program. Plan updates for non-regulated farms with CNMPs that are greater than three years old will be eligible for cost share.

## Implementation

Applicants requesting State funding for the implementation of eligible Best Management Practice Systems must have completed an AEM Tier 3 plan, which could include a Tier 3A that addresses the resource concern identified for implementation, a Tier 3B Comprehensive Nutrient Management Plan (CNMP), or a Tier 3C Whole Farm Plan (WFP).

The Agricultural Best Management Practice Systems Catalogue shall serve as guidance for eligible Best Management Practice (BMP) System selection. The catalogue has been made available as a download on SharePoint. Funds may be used for preventative initiative, remedial initiatives, or both. All BMPs proposed for implementation must meet New York State NRCS Standards and Specifications; if no NYS NRCS Standards or Specifications exist then the practice must be designed to meet nationally recognized standards (*e.g.* American Concrete Institute Standards). All practices implemented must be approved by an individual with appropriate approval authority in accordance with the Knowledge, Skills, and Abilities chart.

Appendix 1 of the application form, Screening Tool for Roofs and Covers for Heavy Use Areas, Barnyards and Feedlots, must be filled out for each applicant requesting State funding for the implementation of a covered barnyard or heavy use area.

Applicants requesting State funding for implementation of an Agricultural Waste Storage Facility (NRCS NY – 313 Waste Storage Facility) must demonstrate that a CNMP has been completed for the farm(s) prior to the submission of an application pursuant to this RFP. Additionally, Appendix 2 of the application, the Tier 3A Screening Tool for Agricultural Waste Storage Facility must be filled out to document the existing resource concern and define the proposed project.

When considering applying for a new or relocated bunk silo, anaerobic digester, bedded pack system or covered heavy use area you will need to refer to the respective AGNPS Program policy for a list of components eligible for cost share. **Long term manure storages constructed under animal housing facilities (under barn manure storages) are strictly prohibited through the AGNPS program.**

BMPs to be implemented on rented property should not be submitted for funding unless there is a written lease for the use of the property for the life span of the BMP (*see* attached BMP Operation & Maintenance Guidelines, page 16).

## **2.2 BMP Operation and Maintenance Guidelines**

A BMP that is funded by the NYS Agricultural NPS Abatement & Control Program must be maintained and properly operated for the conservation purposes for which the practice was approved. The project sponsor must ensure that active BMPs, at a minimum, be operated and maintained by the Landowner and/or Operator for the lifespan period. For information on BMPs including life spans please refer to the Agricultural Best Management Practice Systems Catalogue. See page 16 of the RFP for the

## BMP Operation of Maintenance Guidelines.

### 2.3 Eligible Costs

Eligible expenses include:

- personal services for contract administration;
- technical services to implement individual farm-level plans or BMP systems;
- architectural, engineering, consultant and legal services;
- plans and specifications, including personal services to conduct individual farm level agricultural nonpoint source abatement and control plans;
- other direct expenses related to planning and implementation (*e.g.* funding for cultural resource impact determinations for ground disturbing BMPs); and
- Best Management Practice System implementation costs.

State assistance payments may not be used to cover the lease or purchase of equipment not directly related to the function of the BMP. If the equipment is directly related to the function of the BMP state assistance payments can be used. Equipment costs may also be an eligible match contribution. It is advisable for applicants to request clarification on the eligibility of specific equipment during the open questions and answers period and all determinations will be added to the Questions and Answers document.

When applying for a planning grant, State assistance payments may be used to cover the costs associated with the development of a Tier 3B CNMP or Tier 3C Whole Farm Plan and associated plan update costs for two additional years.

Costs associated with the update of an existing CNMP may be utilized as landowner or operator match **ONLY when** applying for an Agricultural Waste Storage Facility. All costs associated with the operation and maintenance of BMPs will be the sole responsibility of the landowner and/or operator and cannot be used as a match to State funding. The project sponsor must require that the landowner and/or operator maintain the practice during its expected life span.

### 2.4 Match Requirements

If the proposal contains no contribution from the owner or operator of agricultural land, then the State may fund up to 75 percent of the total eligible costs for planning **or** BMP implementation. The amount of State funding may be increased by a percentage equal to the percentage of the total eligible costs that are contributed by the landowner or operator provided, however, that in no event shall the amount of State funding exceed 87.5 percent of total eligible costs. The State funded contribution in dollars or percentages cannot increase because of budget changes or variations.

Landowner or operator contributions used to increase the State portion of the project cost may be in the form of cash, or in kind services which are calculated using an assigned cash value. An assigned cash value provided by the landowner or operator must be reasonable and is subject to adjustment by the committee.

If the Project Sponsor will be contributing match, the contribution may be in the form of in-kind services and/or cash (non-state funds). Recommended or actual hourly rates may be used to determine the value of Project Sponsor in-kind services. Funds from the Agricultural Nonpoint Source Abatement and Control Program will be provided contingent upon the sponsor receiving necessary funds to provide the required match. Sponsor and landowner contributions and expenditures made or incurred prior to

the contract start date or after contract completion, as designated by the Department of Agriculture and Markets (Department), may not be utilized as matching funds or reimbursed by the State.

## 2.5 Round 27 Ag NPS Grant Hourly Rate Recommendation

The following rates were acquired from SWCDs as a result of our inquiry as part of the 2019 annual reports submitted.

The new hourly rates which can be used by SWCDs, in lieu of providing justification for calculating their actual salary, benefit and overhead, to calculate total personnel services costs for Round 27 Agricultural Nonpoint Source Abatement and Control Grants are as follows:

	<u>Hourly Rate</u>	<u>Overhead</u>	<u>Total</u>
Managerial	\$63	\$5	\$68
Senior Technical*	\$48	\$5	\$53
Technical	\$40	\$5	\$45
Secretarial	\$40	\$5	\$45
SWCD Engineer	\$66	\$5	\$71
NRCS Area Engineer	\$70	\$5	\$75

\*10 years of experience or more

In the above figures, the NRCS Area Engineer Rate and the \$5 per hour overhead cannot be paid with State funds but needs to be shown in the Sponsor column under Engineering and Overhead Expenses. The budget form provides a column for the \$5 per hour overhead figures. The remainder of the hourly rate figures for each category can be requested for State funding if there is adequate match in the grant.

Districts may use their actual salary, benefit and overhead figures in lieu of the above set rates. In those cases, full documentation must be provided to obtain payment. In cases where interns, seasonal or part-time employees are used, actual hourly rates will have to be used and justified. If a SWCD Engineer opts to use their actual salary, overhead expenses cannot be used.

These rates, including overhead expenses, can also be used for local agency personnel (NRCS, CCE) as well as private sector consultants. These individuals will also have the option to use and fully justify their own actual rates. Overhead expenses cannot be used for actual rates.

Hourly rates have not been specified for landowners wishing to contribute in-kind match. Districts may name a reasonable hourly rate, based on the work the landowner will be performing. The \$5 per hour overhead cannot be used for landowners.

### 3. PROPOSAL FORMAT, CONTENTS AND SUBMISSION

#### 3.1 Request for Proposals Timeline

	Deadline
Release Request for Proposals	May 10, 2021
Begin posting Questions and Answers	May 24, 2021
Deadline for submittal of questions	June 14, 2021
Final Questions and Answers Posted	June 21, 2021
Deadline for Proposal Submission	June 28 2021
Award Announcement	October 2021

#### 3.2 Submission Requirements

Proposals for funding under the Agricultural Nonpoint Source Abatement and Control Program must be submitted through the **NYS SWCC SharePoint Site by 4:30 p.m. local time, June 28, 2021.**

Applicants are responsible for the timely submission of proposals. *Proposals will not be accepted after the due date and time.* Mailed, delivered, or faxed proposals will not be accepted. If delays or other upload issues are experienced when submitting to SharePoint, proposals may be e-mailed to the Program Manager at [Bethany.bzduch@agriculture.ny.gov](mailto:Bethany.bzduch@agriculture.ny.gov). A notification e-mail must be sent to the Program Manager documenting the inability to upload prior to submitting the proposal via e-mail. The Department reserves the right to request paper copies as necessary.

#### 3.3 Questions and Answers

***Prospective applicants with questions concerning this RFP should present those questions to:***

Bethany Bzduch  
New York State Soil & Water Conservation Committee  
10 B Airline Drive Albany, NY 12235  
(518) 457-3738 (phone)  
(518) 457-3412 (fax)  
[Bethany.bzduch@agriculture.ny.gov](mailto:Bethany.bzduch@agriculture.ny.gov)

All questions must be submitted in writing to Bethany Bzduch by the deadline indicated in Section 3.1 Request for Proposals Timeline. Applicants should note that all clarifications are to be resolved prior to the submission of a proposal. A list of questions about the RFP, answers to those questions as well as any addenda to the RFP, will be added to the Frequently Asked Questions Document posted on SharePoint along with the electronic version of this RFP and other program attachments. All questions and answers shall be incorporated into the RFP as a formal addendum.

### 3.4 Proposal Format

#### Application Packet (Please use forms provided)

##### Planning:

For planning (Tier III) proposals, applicants **MUST** submit the following attachments through the SharePoint Site:

- the completed project Application Form;\*
- Form SW-1: List of Participating Landowners - a list of farms to be addressed by the proposal with applicable information;\*
- Form SW-2: Budget Form - completed budget form with cost share amounts and source of sponsor and landowner contributions noted, and designation of match as cash (C) or in-kind (IK);\*
- Form SW-4: Personnel Worksheet - completed project personnel worksheet ;\*
- SWCD Board Resolution authorizing this project application to the Agricultural Nonpoint Source Abatement and Control Grants Program;
- 8½ x 11 map(s) of the watershed(s). All maps must be legible and must include the following\*\*:
  - boundary of the watershed
  - location of the impacted waterbody
  - location of farm(s) participating in the grant
  - names of townships within the watershed boundary;
- if applying for the 303D/TMDL/9E Watershed Plan additional points, the most recent 303D/TMDL/9E segment report or introduction section for the impacted waterbody;
  - Agriculture **MUST** be identified as a known source of pollution in order to qualify for additional points
- if applying for the public drinking water protection additional points, the Source Water Assessment map showing farms in the assessment area;
- signed Landowner Commitment and Signature form for each participating landowner;
- OPTIONAL - the most recent Priority Waterbodies List (PWL) update available for ALL segment numbers identified on Part C, Question 10 of the application form, appropriate groundwater or wellhead protection information or other documentation.

##### Implementation:

For implementation (Tier IV) proposals, applicants **MUST** submit the following through the Sharepoint Site:

- the completed project Application Form;\*
- Form SW-1: List of Participating Landowners - a list of farms to be addressed by the proposal with applicable information;\*
- Form SW-2: Budget Form - completed budget form with cost share amounts and source of sponsor and landowner contributions noted, and designation of match as cash (C) or in-kind (IK);\*
- Form SW-3: BMP Implementation List - a list of all BMP Systems and Component Practices for



- each landowner indicating the type and cost);\*
- Form SW-4: Personnel Worksheet - completed project personnel worksheet ;\*
  - SWCD Board Resolution authorizing this project application to the Agricultural Nonpoint Source Abatement and Control Grants Program;
  - 8½ x 11 map(s) of the watershed(s). All maps must be legible and must include the following\*\*:
    - boundary of the watershed
    - location of the impacted waterbody
    - location of farm(s) participating in the grant
    - names of townships within the watershed boundary;  - A topographical layer may added to each farmstead or field map **OR** a separate 8 ½ x 11 topographical map of each project site may be included Separate maps must be legible, utilize an appropriate scale, and include the following:\*\*
    - north arrow,
    - project site location(s) **OR** a topographic layer may added to each farmstead or field map;
  - Farmstead or field map from the AEM Plan that includes the following: \*\*
    - the proposed project area
    - flow path direction and distance (in feet) to the impacted watercourse or groundwater recharge area. If a topographic layer has been added the layer should be set to an appropriate level of transparency
  - if applying for the 303D/TMDL/9E Watershed Plan additional points, the most recent 303D/TMDL/9E segment report or introduction section for the impacted waterbody;
    - Agriculture **MUST** be identified as a known source of pollution in order to qualify for additional points
  - if applying for the public drinking water protection additional points, the Source Water Assessment map showing farms in the assessment area
  - if applying for the livestock access control and/or conservation buffer points, the SW3 BMP Implementation list is included with the appropriate BMP System and units listed for each Landowner.
    - **ALL** Landowners included in the application must commit to implementing livestock access control and/or conservation buffers
  - signed Landowner Commitment and Signature form for each participating landowner;
  - OPTIONAL - the most recent Priority Waterbodies List (PWL) update available for ALL segment numbers identified on Part C, Question 10 of the application form, appropriate groundwater or wellhead protection information or other documentation.

**THE SWCD MANAGER MUST FILL OUT AND SIGN THE CHECKLIST WITH EACH APPLICATION SUBMISSION**

**\* Items marked with an asterisk are essential required elements of the proposal.** Failure to provide the item(s) by the deadline for proposal submission will constitute an incomplete proposal and the application will not be considered for funding.

**\*\*Items marked with a double asterisk are required elements that if determined to be missing the**

**applicant will be notified by email and provided 5 business days to submit the missing item(s).** Failure to provide the item(s) by the designated deadline will constitute an incomplete proposal and the application will not be considered for funding. If the item(s) are received by the designated deadline the proposal will be considered for funding and receive a 5 point reduction penalty from the final aggregated score. *Applications that received a 5 point penalty are not eligible to receive AGNPS preference points.*

### 3.5 Deliverables

Deliverables are the anticipated end-product of the proposal. The primary deliverables for this program will be **ONE** of the following: plans (Tier III) **OR** the implementation of BMP Systems (Tier IV) to control and/or prevent agricultural nonpoint source pollution.

### 3.6 Proposed Scope and Budget

A Participating Landowners Form (SW-1), Project Budget Form (SW-2) and Key Personnel Worksheet (SW-4) must be completed for each project submitted. A BMP implementation list (SW-3) must be completed for each implementation (Tier IV) project submitted. These forms should indicate State assistance payments requested by expenditure category, as well as the amount, type (cash or in-kind) and source (SWCD, landowner, EQIP) of the Project Sponsor's and landowner's matching contribution. Please refer to the "Match Requirements" section of this RFP for additional information.

The proposed budget may include a "Contingency Account" of up to 10 percent of BMP expenditures to cover cost overruns. **The Budget Form (SW-2) will NOT automatically calculate the "Contingency Account"**. The Project Sponsor will be responsible for manually entering this amount into the form. **When implementing best management practices in accordance with the NYS SWCC Soil Conservation Cultural Systems Policy utilizing flat rates, projects will NOT be eligible for contingency funds.** Established flat rates have been published in the New York State Soil and Water Conservation Committee Soil Conservation – Cultural System Implementation Guidance document. Use of contingency funds for all other BMP Systems, will require a sponsor and/or landowner contribution that is the same as the match percentages of the BMP(s). Contingency funds may be used only with prior approval by the Director of the Division of Land and Water Resources, the Assistant Director, Program Manager or the appropriate Associate Environmental Analyst. Please indicate whether the sponsor and/or landowner contribution match will be cash or in-kind.

### 3.7 Status of Source Water Assessment Program Maps/Susceptibility Summary Analysis

Source Water Assessment Program reports were mailed to each Soil and Water Conservation District (SWCD) in February 2005 by the NYS Department of Health, Bureau of Water Supply Protection. The reports may be useful to SWCD program activities. As appropriate, SWCDs are encouraged to include portions of these reports as supporting documentation for Agricultural NPS Abatement and Control Program proposals. Portions of these reports will document the potential to receive additional points for proposals that address sources of a public drinking water. Questions regarding source water protection and public water supplies can be addressed to **Ashley Inzerillo, Source Protection Section, Bureau of Water Supply Protection at 518-402-7650 or [ashley.inzerillo@health.ny.gov](mailto:ashley.inzerillo@health.ny.gov).**

### 3.8 Status of WI/PWL Reports

To access information on Waterbody Inventory/Priority Waterbodies List, please visit the online map tool - NYS DEC InfoLocator: <https://gisservices.dec.ny.gov/gis/diil/>. To view the WI/PWL factsheets, select the Environmental Monitoring layer in the left column and select the following four layers: Lakes

and Reservoirs, Estuaries, Rivers and Streams, and Shorelines. Locate the waterbody of interest and zoom until a hyperlink is available.

#### **4. EVALUATION CRITERIA AND METHOD OF AWARD**

##### **4.1 Funding Criteria**

Scoring is based on the Proposal Rating Sheet. Evaluators will record proposal scores in each of the four scoring categories. The scores of the evaluators will be aggregated and preference (up to 5 points) or penalty points will be assessed on the aggregated score to make up proposal's grand total score. All proposals will then be ranked by their grand total score from highest to lowest to make up the Ranked List for awards. The maximum available aggregated score is 300 points based on six evaluators awarding a maximum score of 50 points each. Proposals that receive a score of less than 150 or 50% of the maximum available aggregated score, before preference points are assigned, will not be considered for funding. With all preference points earned (see below) the maximum grand total score is 305.

The State Committee shall give preference to proposals located within a watershed or subwatershed of a priority waterbody as identified by the Commissioner of Environmental Conservation, pursuant to Section 17-1407 of the Environmental Conservation Law. [DEC defines such priority waterbodies to include the Priority Waterbodies List (PWL) for surface water and for groundwater - unconsolidated aquifers (including primary, principal and other aquifer areas, as illustrated on a series of five maps entitled, "Potential Yields of Wells in Unconsolidated Aquifers in Upstate New York" and on other more detailed aquifer maps published by the U.S. Geological Survey), and wellhead protection areas (determined by municipalities, county agencies and regional planning agencies consistent with the New York State Wellhead Protection Program).]

The State Committee shall also give preference to projects proposed to promote participation in or further the priorities of the AEM program and the specific five-year AEM County Strategies (Agriculture & Markets Law Article 11-a).

Consideration will be given to the following factors in rating proposals:

1. Project clearly addresses identified need or opportunity;
2. Project supports other conservation efforts;
3. Adequate scope of work and time frame; and
4. Project is cost effective.

All proposals must include sufficient information to allow the above factors to be evaluated. The State Committee reserves the right to conduct site reviews of the proposed project areas as part of the selection process.

All eligible proposals will be graded according to the stated criteria and ranked in order of overall score from highest to lowest. The Advisory Members will recommend projects for funding to the full State Committee. The voting members of the State Committee, through adoption of a written resolution, will authorize funding for projects based on the recommendations of the advisory members until the scoring threshold has been reached or available funds are exhausted. Consideration will be given to any provisions governing or restricting the use of the available funds. The resolution shall be made available as part of the SWCC official meeting minutes. The State Committee shall notify in writing those districts selected for funding.

## 4.2 Preference Points

Preference Points will be assessed by the Program Manager based on the submission of the required information as defined in the Request for Proposals. If the required information for preference point consideration is not received, the proposer will not be notified and bonus points will not be assessed. Applications that receive a 5 point penalty will not be eligible to receive preference points.

- The State Committee shall give two (2) additional points to proposals that meet **ONE** of the following criteria. The points will be awarded to the aggregated score:
  - Address waterbodies with an active TMDL, Nine Element (9E) Watershed Plan, or those included in the most recent New York State 303(d) List of Impaired Waters Requiring a TMDL, where the source of the impairment is agriculture, and the project will contribute to restoration of water quality
  - Address a source of public drinking water as identified on the NYS Department of Health Source Water Assessment Program (SWAP).
- The State Committee shall give additional points to projects proposing to exclude livestock from watercourses and/or implement conservation buffers on all participating farms in the proposal. Points will be awarded on a graduated scale according to the following\*:
  - Access Control, NRCS Standard 472 = 1 Point awarded to the aggregate proposal score
  - Access Control + Herbaceous Buffer, NRCS Standard 390 = 2 Points to the aggregated score
  - Access Control + Forest Buffer, NRCS Standard 391 = 3 Points to the aggregated score

\* To receive conservation buffer points on cropland and/or pasture, where access control of livestock is not applicable, 2 points will be added to the final aggregated score for implementing Herbaceous Buffers, NRCS Standard 390 on all participating farms

\* To receive conservation buffer points on cropland and/or pasture, where access control of livestock is not applicable, 3 points will be added to the final aggregated score for implementing Forest Buffers, NRCS Standard 391 on all participating farms

\* For the purpose of awarding preference points, if all farms commit to implement a range of eligible conservation buffer systems but not all commit to the highest level of conservation buffers, the points will be awarded based on the buffer system with the fewest amount of points available. *For example, if there are four farms on the proposal and two commit to implement Herbaceous Buffers, NRCS Standard 390 and two farms commit to implement Forest Buffers, NRCS Standard 391, then 1 point will be added to the final aggregated score. For another example, if there are four farms on the proposal and three commit to implement Forest Buffers, NRCS Standard 391, and one farm does not commit to install any of the above listed practice systems, then no preference points will be added to the final aggregated score.*

## 5. AWARDS

Sponsors whose proposals are selected for funding will be notified as soon as possible. Selected proposals must comply with all applicable federal, State, and local laws and rules and regulations for funding to be awarded. Evidence of such compliance may be required.

Implementation proposals which are selected for funding may be subject to further review by the NYS Office of Parks, Recreation and Historic Preservation (OPRHP) prior to development of a contract. The State Committee reserves the right to request such additional information from sponsors as is

necessary to allow the OPRHP to make a determination regarding the impact of a project.

### **5.1 Debriefing of Non-Awardees**

Following the announcement of the applicants awarded funding agreements under this RFP, unsuccessful applicants may request a debriefing from the Department's Program Manager no later than fifteen (15) days from the date of the non-award notification. This briefing will be limited to a discussion of the failed aspects of the subject application. To request a review of an unsuccessful application, contact Bethany Bzduch, AgNPS Program Manager via e-mail at [bethany.bzduch@agriculture.ny.gov](mailto:bethany.bzduch@agriculture.ny.gov).

## **6. CONSIDERATIONS**

### **6.1 Contracts**

Once an application has been selected for funding, the State Committee will notify the sponsor of the need to provide information necessary to complete the contract.

If the State Committee and the Department are unsuccessful in negotiating a contract which will achieve the deliverables in a manner consistent with the proposal as approved by the State Committee, the RFP, and any applicable laws or regulations, the Committee reserves the right to rescind its approval of the proposal for funding and instead award the funding to other eligible unfunded project proposals.

For planning projects, the standard term will be three years. The standard term for implementation projects will be three full construction seasons plus three months for project administration and completion of the final report. The NYS Soil and Water Conservation Committee reserves the right to increase the standard contract term for planning and/or implementation projects. The contract term will be provided to each awardee in the Plan of Work Memo. The earliest contract start date would be 07/01/2021 and the latest end date would be 06/30/2026. These dates may be subject to change. The project sponsor may request a different term, if necessary. Funding of proposals that extend over more than one State fiscal year will be subject to the reappropriation of funds.

#### Sub-contracts

Any subcontract utilized by the SWCD shall be in writing and shall clearly describe the goods or services to be provided and the total cost of such goods or services. Subcontracts for services shall separately state the rate of compensation on a per-hour or per-day basis.

For implementation projects, the SWCD must have an executed funding agreement with each participating landowner prior to submitting claims for payment for implementation funds under this Agreement. The landowner must acknowledge and agree that they will be responsible for the total BMP implementation costs and that all state assistance payments will be made on a reimbursement basis. The funding agreement must also state that all cost overruns will be the responsibility of the landowner. The amount and source of all landowner contributions must be identified, and a commitment of match for contingency funds must be included.

For all subcontracts with a farm landowner and/or operator involving the purchase of goods and/or services for BMP implementation projects, the Contractor shall require the landowner and/or operator to obtain 3 written quotes for all purchases over \$20,000. The Contractor shall require the landowner and/or operator to document all quotes and justify in writing any instances where purchases were not made from the lowest responsible bidder. Additionally, the Contractor shall notify the Department if either the farm landowner or the Contractor intends to perform any of the BMP Implementation Work when such work is valued at \$20,000 or more. The Contractor shall retain

documentation of all purchases in a manner that is readily available for review if requested by the Department. For all other subcontracts **the Contractor** shall follow its own procurement policies.

## **6.2 Payment**

Payments cannot be made until the contract is fully executed. A minimum of 10 percent of the State assistance payment will be withheld pending satisfactory completion of the contract.

Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The Contractor shall comply with the Comptroller of the State of New York's procedures to authorize electronic payments. Contractor acknowledges that it will not receive payment on any invoices submitted under this Agreement if it does not comply with the Comptroller of the State of New York's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

Monies received pursuant to the contract shall be deposited by the Contractor in a separate interest-bearing account. Prior to the final payment, the Contractor must submit to the Department a statement of interest earned during the term of this Agreement. The final payment will be offset by the amount of any interest earned.

## **6.3 Reporting Requirements**

State Committee staff will monitor the progress of each funded project.

The State Committee reserves the right to modify the reporting requirements during the course of the project. At a minimum, progress reports shall be filed with the Committee when requesting payments and/or when submitting a contract amendment. In addition, an original comprehensive final report will be required within sixty (60) days following completion of the project.

The final report shall include a final report and checklist including a description of the work completed and problems encountered (reviewed and signed by SWCC staff); final budget report detailing income and expenditures; final SW forms 1, 3, and 4 (including SWCD timesheets); and Landowner Summary which includes a Project Expenditure Summary form, invoices, proofs of payment, and landowner time logs, Procurement Record form, Consultant Engineer's Certification form, and photographs.; and such other information as the State Committee may deem necessary.

The State Committee reserves the right to conduct a follow-up evaluation of funded projects in order to determine long-term impacts.

The Department and Comptroller's Office reserves the right to audit the Project Sponsor's books and records relating to the performance of the project during and up to six (6) years after the completion of the project.

## **6.4 NYS Master Contract**

New York State has developed a standard "Master Contract" containing standard clauses required in all State Contracts. The Master Contract will be executed for all projects awarded under the Agricultural Nonpoint Source Abatement and Control Grant Program, and applicants are responsible for complying with the terms and conditions contained therein.

## 6.5 Liability

The State will not be held liable for any costs incurred by any District for work performed in the preparation of and production of a proposal, or for any work performed prior to the formal execution of a contract.

## 6.6 Freedom of Information

All proposals submitted and all related contracts and reports may be subject to disclosure under the Freedom of Information Law.

## 6.7 Other Considerations

The State Committee reserves the right to:

- 1) Modify proposal submission requirements as deemed necessary with appropriate written notice to all potential applicants;
- 2) Reject any or all proposals received in response to this RFP;
- 3) Withdraw the RFP at any time, at the State Committee's sole discretion;
- 4) Make an award under the RFP in whole or part;
- 5) Disqualify any applicant whose conduct and/or proposal fails to conform to the requirements of the RFP;
- 6) Seek clarifications and revisions of proposals;
- 7) Prior to the deadline for proposals, amend the RFP specifications to correct errors or oversights, or to supply additional information, as it becomes available and with appropriate written notice to all potential applicants by posting amendments on the [Department's website](#);
- 8) Prior to the deadline for proposals, direct applicants to submit proposal modifications addressing subsequent RFP amendments;
- 9) Change any of the scheduled dates;
- 10) Eliminate any mandatory, non-material specifications with which all applicants cannot comply;
- 11) Waive any requirements that are not material;
- 12) Require clarification at any time during the grant process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an applicant's proposal and/or to determine an applicant's compliance with the requirements of the RFP;
- 13) Waive or modify minor irregularities in proposals received after prior notification to the applicant;
- 14) Award more than one funding agreement to the same successful applicant resulting from this RFP;
- 15) Negotiate with successful applicants any matter within the scope of the RFP in the best interests of the State; and
- 16) Make all final decisions with respect to the amount of State funding and the timing of payments to be provided to an applicant.

All eligible proposals submitted in response to this RFP will become the property of the New York State Soil and Water Conservation Committee.

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## BMP Operations and Maintenance Guidelines

1. A BMP that is funded by the NYS Agricultural NPS Abatement & Control Program must be maintained and properly operated for the conservation purposes for which the practice was approved. BMPs must, at a minimum, be maintained by the Landowner and/or Operator for the lifespan period in years set forth below.
2. In the event a Landowner and/or Operator modifies or ceases his/her enterprise and a BMP becomes idle but remains intact, the BMP should be considered to be maintained and the BMP life span shall include the idle period.
3. Under special circumstances such as financial or management difficulties, the SWCD Board of Directors may recommend that the Landowner and/or Operator be exempt from the requirement to maintain and operate the BMP(s).
4. Under the following conditions, these guidelines should not apply if the SWCD determines that:
  - The Landowner's and/or Operator's Conservation Plan no longer requires operation and maintenance of the BMP.
  - Failure to operate and maintain the BMP was because of conditions beyond the Landowner's and/or Operator's control or the Landowner involuntarily loses control of the land.
  - The BMP was discontinued to perform another BMP that provides comparable water quality benefits.
5. The following list of BMP life spans are for practices implemented under the New York State Agricultural NPS Abatement & Control Grant Program.

Access Control System (10)	Pathogen Management System (10)
Agrichemical Handling and Storage System (10)	Petroleum and Oil Products Storage System (10)
Composting System – Animal (10)	Prescribed Rotational Grazing System (10)
Erosion Control – Structural System (10)	Process Wash Water Management System (10)
Feed Management System (1)	Riparian Buffer Systems (10)
Integrated Pest Management System <ul style="list-style-type: none"> <li>• IPM Plan (1)</li> <li>• Various Application Equipment (up to 10)</li> </ul>	Silage Leachate Control and Treatment (10)
Irrigation Water Management System (1)	Soil Conservation Systems – Cultural (1-5)
Livestock Heavy Use Area Runoff Management System (10)	Stream Corridor and Shoreline Management System (10)
Manure and Agricultural Waste Treatment System (10)	Waste Storage and Transfer System (10)
Nutrient Management – Cultural (1)	

For more information on BMPs and their associated life spans, please refer to the Agricultural Best Management Practice Systems Catalogue and the NRCS Electronics Field Office Technical Guide (E-FOTG).

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**RFP-0248 AG NONPOINT SOURCE ABATEMENT & CONTROL GRANT PROGRAM**

**ROUND 27**

**PROPOSAL RATING SHEET**

Preference Points – awarded to the aggregate score (Maximum of 5 points)	Available Points
<p>The State Committee shall give two (2) additional points to proposals that meet <b>ONE</b> of the following criteria.</p> <ul style="list-style-type: none"> <li>• Address waterbodies with an active TMDL, Nine Element (9E) plan, or those included in the most recent New York State 303(d) List of Impaired Waters Requiring a TMDL, where the source of the impairment is agriculture, and the project will contribute to restoration of water quality</li> <li>• Address sources of public drinking water as identified on the NYS Department of Health.</li> </ul>	<b>2</b>
<p>The State Committee shall give additional points to projects proposing to exclude livestock (access control) from watercourses and/or implement conservation buffers on all participating farms in the proposal. Points will be awarded on a graduated scale according to the following<sup>1</sup>:</p>	
<p>Access Control, NRCS Standard 472</p>	<b>1</b>
<p>Access Control + Herbaceous Buffer, NRCS Standard 390 <b>OR</b> Herbaceous Buffers, NRCS Standard 390 on cropland and/or pasture where livestock access is not applicable</p>	<b>2</b>
<p>Access Control + Forest Buffer, NRCS Standard 391 <b>OR</b> Forest Buffers, NRCS Standard 391 on cropland and/or pasture where livestock access is not applicable</p>	<b>3</b>

<sup>1</sup>For the purpose of awarding preference points, if all farms commit to implement a range of eligible conservation buffer systems but not all commit to the highest level of conservation buffers, the points will be awarded based on the buffer system with the fewest amount of points available.

*For example, if there are four farms on the proposal and two farms commit to implement Herbaceous Buffers, NRCS Standard 390 and two farms commit to implement Forest Buffers, NRCS Standard 391, then one point will be awarded to the final aggregated score. For another example, if there are four farms on the proposal and three farms commit to implement Forest Buffers, NRCS Standard 391, and one farm does not commit to install any of the above listed practice systems, then no additional points will be awarded to the final aggregated score.*

1. Project Clearly Addresses Identified Need or Opportunity (Maximum Score = 25 points)	Available Points per Category
Watershed analysis has already been conducted to document the pollutants of concern and likely nonpoint sources of that pollution in the watershed.	Proposal may receive up to 5 points
<ul style="list-style-type: none"> <li>○ Watershed analysis has been done to prioritize the farms and is consistent with AEM concepts and approach outlined in the AEM Base Program Manual.</li> </ul>	
<ul style="list-style-type: none"> <li>○ BMP selection is based on an AEM Strategic Plan, a watershed analysis, an AEM Tier 2 environmental risk assessment and a Tier 3A Conservation Plan for the agricultural pollutant source(s) being addressed on the PWL sheet, management plan or program (<i>i.e.</i>; Harmful Algal Blooms Action Plan), or as designated in the aquifer or wellhead protection area source summary sheet.</li> </ul>	
<ul style="list-style-type: none"> <li>○ Project addresses objectives outlined in a watershed-based management plan with documented agricultural water quality concerns.</li> </ul>	
Project addresses a significant identified need or opportunity.	Proposal may receive up to 20 points
<ul style="list-style-type: none"> <li>○ The SWCD has rated this proposal as one of their highest priorities (project ID).</li> </ul>	
<ul style="list-style-type: none"> <li>○ Project proposes to implement BMPs on farms that are not Repeat BMP Systems.</li> </ul>	
<ul style="list-style-type: none"> <li>○ The project addresses the objectives and goals outlined in the County AEM Strategy. <ul style="list-style-type: none"> <li>▪ The priority planning unit strategy is summarized and the project will address the water quality and/or aquatic habitat problem(s) described.</li> </ul> </li> </ul>	
<ul style="list-style-type: none"> <li>○ Agriculture is a verified source of pollution identified by the PWL, SWAP or local watershed analysis (<i>i.e.</i>; Harmful Algal Bloom Action Plan).</li> </ul>	
<ul style="list-style-type: none"> <li>○ The impacted waterbody is included on the most recent New York State Section 303(d) List of Impaired Waters Requiring a TMDL and agriculture has been identified as a source of pollutants.</li> </ul>	
<ul style="list-style-type: none"> <li>○ Project addresses public drinking water quality impairments or protection. <ul style="list-style-type: none"> <li>▪ Agricultural pollution prevention or remediation activities are being undertaken to protect a public drinking water supply (surface or ground water).</li> </ul> </li> </ul>	
<ul style="list-style-type: none"> <li>○ Selected BMPs are needed to address preventative pollution concerns or compliance issues and the need is well documented.</li> </ul>	

<ul style="list-style-type: none"> <li>▪ If the watershed is not documented by the PWL or other study as having an impairment, the environmental risk and opportunity to prevent water quality degradation is explained and well documented.</li> </ul>	
<ul style="list-style-type: none"> <li>○ Project proximity to the water resource being addressed suggests close relationship between impairment of water resource and potential pollutant source.</li> </ul>	
<ul style="list-style-type: none"> <li>○ Selected BMPs are needed to implement CNMPs for compliance with the SPDES Permit.</li> </ul>	
<ul style="list-style-type: none"> <li>○ There is good documentation of the problem in the proposal narrative, maps, photos, and other supporting documents and proposed plans or BMPs will address the problem identified.</li> </ul>	

<b>2. Project will support other conservation efforts (Maximum Score = 5 points)</b>	<b>Available Points per Category</b>
Evidence that the proposed project will support other conservation efforts is documented	Proposal may receive up to 5 points
<ul style="list-style-type: none"> <li>○ A multi-county approach is utilized if the watershed encompasses more than one county, and all counties have agreed to participate</li> </ul>	
<ul style="list-style-type: none"> <li>○ A Watershed Agricultural Advisory Committee has been established and the project meets the goals of the committee.</li> </ul>	
<ul style="list-style-type: none"> <li>○ Implementation projects proposed for funding are located on agricultural lands that have been permanently protected from conversion to non-farm development by perpetual conservation easements.</li> </ul>	
<ul style="list-style-type: none"> <li>○ Project is consistent with, or in cooperation with, other watershed planning and/or implementation activities in the project area or is part of a phased effort to address agricultural nonpoint sources in the watershed.</li> </ul>	
<ul style="list-style-type: none"> <li>○ The project will encourage the adoption of additional BMPs in the watershed beyond what the grant will be funding. For example, a BMP that demonstrates a practice not widely used in an area that could encourage replication on nearby farms.</li> </ul>	
<ul style="list-style-type: none"> <li>○ Project will assist in meeting federal and other state environmental conservation programs and program requirements/objectives (e.g. CWA, SDWA, CZARA, Farm Bill, CREP, SWAP, CRF, AEM, SWBP, etc.)</li> </ul>	
<ul style="list-style-type: none"> <li>○ Project will assist in meeting the goals and objectives identified in the Methane Reduction Plan.</li> </ul>	

<b>3. Adequate Scope of Work and Time Frame (Maximum Score = 10 points)</b>	<b>Available Points per Category</b>
The feasibility of the project is clearly demonstrated	Proposal may receive up to 7 points
<ul style="list-style-type: none"> <li>○ Project proposal is comprehensive, coordinated and integrated and uses an interdisciplinary team of public and/or private sector professionals to maximize the ability to develop Tier 3 plans or engineer and implement Tier IV BMPs.</li> </ul>	
<ul style="list-style-type: none"> <li>○ Project proposal includes engineering/technical services commensurate with BMP deliverables.</li> </ul>	
<ul style="list-style-type: none"> <li>○ There is demonstrated experience and ability of the sponsor and project staff to undertake the proposed activity.</li> </ul>	
<ul style="list-style-type: none"> <li>○ If the sponsor has multiple open grants from past funding cycles, the application clearly defines the capacity of the District to complete proposed activities.</li> </ul>	
<ul style="list-style-type: none"> <li>○ Sponsor has demonstrated the ability to complete past projects in a timely manner.</li> </ul>	
<ul style="list-style-type: none"> <li>○ Sponsor has demonstrated the ability to fulfill program report requirements.</li> </ul>	
<ul style="list-style-type: none"> <li>○ Project deliverables are clearly defined and consistent with program objectives. Proposal clearly defines what is to be done, how it will be done, who will do it and when it will be done.</li> </ul>	
<ul style="list-style-type: none"> <li>○ Local AEM Stakeholders have a role in developing and carrying out this project.</li> </ul>	
Project implements best management practices	
<ul style="list-style-type: none"> <li>○ A higher level of planning than what is required has been completed. (e.g. a complete farmstead plan, field level Resource Management System, Comprehensive Nutrient Management Plan, Whole Farm Plan.)</li> </ul>	
<ul style="list-style-type: none"> <li>○ Preliminary design work has been completed.</li> </ul>	
<ul style="list-style-type: none"> <li>○ BMPs to be installed are listed in the Agricultural Best Management Practice Systems Catalogue.</li> </ul>	

4. Project is Cost Effective (Maximum Score = 10 points)	Available Points per Category
Evidence of Landowner/Operator Support is documented	Proposal may receive up to 5 points
<ul style="list-style-type: none"> <li>○ Landowner provides a sufficient match in cash or in-kind services, especially if requesting a substantial amount of State grant funds.</li> </ul>	
<ul style="list-style-type: none"> <li>○ Landowner provides, for implementation projects at Concentrated Animal Feeding Operations (CAFOs), a contribution from the owner or operator significantly greater than that required by law.</li> </ul>	
<ul style="list-style-type: none"> <li>○ Landowner provides, for BMP implementation projects intended to prevent pollution from farm expansion, a contribution from the owner or operator significantly greater than that required by the program.</li> </ul>	
The cost effectiveness of the project is demonstrated	Proposal may receive up to 5 points
<ul style="list-style-type: none"> <li>○ Plans to be prepared or BMPs to be implemented are cost effective relative to the expected water quality benefit.</li> </ul>	
<ul style="list-style-type: none"> <li>○ Project proposes to implement agronomic, and/or vegetative BMPs that are cost effective relative to the expected water quality benefit.</li> </ul>	
<ul style="list-style-type: none"> <li>○ Estimated time to complete and hourly rates being charged for equipment, administrative or technical/engineering services are reasonable. (e.g. reflect average costs documented in the NRCS Field Office Technical Guide; administrative, technical, and engineering services reflect an appropriate percentage of the total project cost).</li> </ul>	
<ul style="list-style-type: none"> <li>○ Equipment purchases, if needed, are kept to a minimum.</li> </ul>	
<ul style="list-style-type: none"> <li>○ Capital equipment, if needed, is leased whenever possible.</li> </ul>	
<ul style="list-style-type: none"> <li>○ The project contains additional matching funds above the minimum required or leverages additional funding (e.g. local, EQIP, CREP, CRP, EPA 319, etc.), especially if requesting a substantial amount of State grant funds.</li> </ul>	

# NYS Major Drainage Basins

