

**RFA0238**  
**NEW YORK STATE**  
**DEPARTMENT OF AGRICULTURE AND MARKETS**  
**REQUEST FOR APPLICATIONS**  
**for State Assistance Payments for**  
**ROUND 18**  
**FARMLAND PROTECTION IMPLEMENTATION GRANTS PROGRAM**  
**Conservation Easement Projects**  
**2021**

**QUESTIONS & ANSWERS - UPDATED**

*(posted June 30, 2021)*

**PLEASE NOTE:** *Errors were discovered in the Financial Worksheet associated with this grant opportunity. We apologize for any confusion and inconvenience to you.*

**Errata:**

1. **Financial Worksheet** posted in Grants Gateway = Tabs for “Easement2,” “Easement3,” “Easement4,” and “Easement5” were not revised for RFA0238. Please use the replacement version [available here](#).
2. For the Climate Resiliency and Food Security categories, the requirement that  $\leq 10\%$  of the Farm Area of a proposed Conservation Easement may be comprised of land capability subclasses e, w, s, or c is unachievable unless comprised solely of prime soils. That was not the intent of this additional caveat. Accordingly, please note the replacement footnote for each respective category:
  - a. APPENDIX A-2, Project Eligibility Criteria – Climate Resiliency, page 23, is replaced to read as follows:  
<sup>6</sup> If  $>10\%$  of the Farm Area acreage as depicted on the site plan(s) of the proposed Conservation Easement Project is comprised of land capability subclass “s” (as defined by the U.S. Department of Agriculture), this project is not eligible in the Climate Resiliency category.
  - b. APPENDIX A-4, Project Eligibility Criteria – Food Security, page 25, is replaced to read as follows:  
<sup>7</sup> If  $>10\%$  of the Farm Area acreage as depicted on the site plan(s) of the proposed Conservation Easement Project is comprised of land capability subclass “s” (as defined by the U.S. Department of Agriculture), this project is not eligible in the Food Security category.

The following questions were submitted to the Department of Agriculture and Markets regarding this Request for Applications (RFA) for Round 18 Farmland Protection Implementation Grants (Conservation Easement Projects).

1. **Q:** In the RFA one of the ways to qualify for the Source Water Protection category is stated to be “directly adjoin surface waters that is designated by the NYS Department of Health as an active or potential source of public drinking water.” Can you point me to a specific page, publication, or resource?

**A:** To qualify for the *Source Water Protection* category any portion of the lands to be protected by the proposed Conservation Easement must:

- Abut or be embedded within other land of the Farm Operation that is the subject of a Source Water Buffer Project awarded by the NYS Soil and Water Conservation Committee; - *applicant should contact Bethany Bzduch ([Bethany.Bzduch@agriculture.ny.gov](mailto:Bethany.Bzduch@agriculture.ny.gov)) to verify and obtain award documentation*
- Directly adjoin surface waters (including wetland areas directly adjoining the surface water) that is designated by the NYS Department of Health as an active or potential source of public drinking water or as designated by the NYS Department of Environmental Conservation as Class A, Class A-Special, Class AA, or Class AA-Special; – *applicant must use NYS DEC [Environmental Resource Mapper](#) to obtain a screenshot to verify the classification assigned to the surface water directly adjoining the subject property; Turn on the Waterbody classifications for Rivers/Streams and also Waterbody classifications for Lakes, then zoom in until the layers appear, and then locate and click on the waterbody - a pop up screen will appear indicating the classification.*
- Lie atop an aquifer designated by the U.S. Environmental Protection Agency as a Sole Source Aquifer; - *applicant must use [Sole Source Aquifers](#) to obtain a screenshot to verify the subject property lies atop a Sole Source Aquifer*
- Lie atop an aquifer designated by the NYS Department of Health as a Primary Aquifer; - *applicant must use [Primary Aquifers in New York State](#) to obtain a screenshot to verify the subject property lies atop a Primary Aquifer* OR
- Lie atop an aquifer designated by the NYS Department of Environmental Conservation as a Principal Aquifer. – *applicant must use [Principal Aquifers in New York State](#) to obtain a screenshot to verify the subject property lies atop a Principal Aquifer.*

2. **Q:** Is an incentive payment considered part of the amount of consideration paid to the landowner for the sale of a perpetual conservation easement?

**A: No.** As depicted on the Financial Worksheet, the incentive payment, which is a program requirement for all Climate Resiliency or Source Water Protection category projects, is one of the itemized eligible transaction costs for a Conservation Easement Project. It is intentionally separate and distinct from the purchase price of the proposed conservation easement. *The incentive payment should not be included in the amount of consideration referenced in the easement document.* The incentive payment is intended to reflect the State’s recognition that a landowner participating in a Climate Resiliency or Source Water Protection project is contributing additional public benefits for the Conservation Easement Project which are above and beyond the perpetual obligation to reserve the subject property for continued agricultural use (which is what the amount of consideration paid to the landowner for the development

rights represents). For the two specific project categories that are eligible for the incentive payment, the conservation plan associated with the conservation easement encumbering a subject property will likely contain more rigorous conservation practices to be applied as well as a higher degree of land use management of the subject property by the participating landowner/farm operator. Those additional and "higher standard" practices/management are what will yield the additional public benefits associated with climate resiliency and source water protection. The additional public benefits will continue to be provided into the future because a conservation plan is a perpetual requirement.

While the incentive payment should be provided to the landowner at the closing of the conservation easement transaction, it should be presented as a separate payment from that representing the proceeds of the landowner's sale of the perpetual conservation easement to the Grantee. For any awarded Climate Resiliency or Source Water Protection category project, simply add the following information in the lower half of page 2 of the ***Landowner Intent to Convey Conservation Easement(s) on Viable Agricultural Land*** form when submitting a project file to the Department:

**Proposed Incentive Payment** = \$\_\_\_\_\_ (no cents) (*Note: Amount must equal 10% of value of development rights as depicted on the **Financial Worksheet.***)