

**AGRICULTURAL CONSERVATION ASSISTANCE PROGRAM LOCAL POLICY
MONROE COUNTY CONSERVATION DISTRICT
ADOPTED JULY 20, 2023
PROGRAM IMPLEMENTATION POLICIES & STANDARDS**

The program implementation of the Agricultural Conservation Assistance Program (ACAP) will follow the policies and guidance outlined in the delegation agreement between the Commonwealth of Pennsylvania through the State Conservation Commission (Commission) and the Monroe County Conservation District (District). **These policies set forth are in conjunction with or in addition to the ACAP Guidelines. Conservation districts have the ability to adjust this document to fit the needs of their county.**

1. Criteria for Equal Access:

Correspondence on program and project updates and examples shall be sent to all eligible program participants.

Application with a specific deadline shall be sent to all eligible program participants.

Special efforts shall be made to enlist the cooperation of participants through a telephone conversation or a site visit.

Information, including any application deadlines, shall be publicized in newspapers, social media, radio and various agency publications.

Prohibit discrimination on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status.

2. Applicant Eligibility

Applicants must meet the following definitions:

- An individual who is actively engaged in the production of an “agricultural commodity” as a part of a “normal farming operation”, as defined by the Pennsylvania Right to Farm Act (3 PA. Stat. Subsection 952).
 - o Agricultural Commodity (2)
 - Any of the following that are transported or intended to be transported in commerce:
 - Agricultural, aquacultural, horticultural, floricultural, viticultural or dairy products.
 - Livestock and the products of livestock.
 - Ranch-raised fur bearing animals and the products of ranch-raised fur bearing animals.
 - The products of poultry or bee raising.
 - Forestry and forestry products
 - Any products raised or produced on farms intended for human consumption and the processed or manufactured products of such products intended for human consumption.

Applicant must supply at least 10% matching funds of the total project cost.

3. Pre-Application Site Visit:

A representative of the District will meet with potential program participants on site to discuss the project before an application is submitted for funding. The purpose of a pre-application meeting is to work jointly with the program participant to ensure that the application they submit is in the best interest of both entities. The pre-application meeting allows the District to provide input on the potential project at an early stage before the program participant has invested a large amount of time and resources in developing an application.

4. Application Process:

All applications for program funding must be received on the "Agricultural Conservation Assistance Program Application" The form must be signed by the program participants. Applications will be taken on an ongoing basis but will be ranked, at the least quarterly, throughout the year. The applications received will be ranked by the Agricultural Technician and District Manager before going to the Monroe County Conservation District Board of Directors for approval. The District has the right to extend deadline dates at their discretion.

The District may retain unfunded ACAP applications on file for two years for future funding allocations. The applying entity may update or cancel the application at any time. Project participants may also choose to revise existing submitted applications.

The District reserves the right to deny an application due to active compliance and/or enforcement actions, or a court order issued by or on behalf of the Commission or cooperating agency for violations of Act 38 of 2005, the Clean Streams Law or other program administered by the Commission or any other criteria established by the Commission.

District staff will review applications for administrative completeness and to ensure they comply with established Program policies and guidance. The location of the project, description of the project, including BMPs, total cost of the project, the amount and other sources of funding available for the project, relevance of the project to the development, improvement or implementation of the applicant's manure or nutrient management plan, conservation plan or agricultural erosion and sediment control plan are required as part of the grant application. **Applications will not be ranked until the required plans are written and being implemented.**

Project participant represents and agrees that he/she is the sole owner of the real property on which the project is to be performed, or has secured a sufficient property interest, including any easements or right-of-ways, necessary to grant access for the completion and maintenance of the project.

District staff will work with program participants to revise the scope of their applications that do not meet program policies. The District may make minor changes to the application and have the applicant show concurrence by initialing and dating the change. In cases where significant changes are needed to the application work plan, the district should work with the program participant to create a new application that represents an acceptable project. Examples of "significant changes" may include: changes in project scope, recommended design changes, considerations for engineering and permitting costs, etc.

Projects funded by ACAP funds in which the estimated cost of the total project (materials, equipment and labor), exceeds prevailing wage limits (currently \$25,000) are subject to provisions of Pennsylvania's Prevailing Wage Act.

All applications for funding must be acted on by the District Board of Directors at a sunshined meeting. All Program participants should be notified in writing of the funding decisions of the District's board.

5. Project Ranking:

When considering your ranking questions, priority must be given to the following criteria:

1. Project meets the goals of the County Action Plan (Monroe 2030)
2. If applicable to the agricultural operation, the applicant has a plan to address on-farm resources concerns (ex: Conservation Plan, Agricultural Erosion & Sediment Control Plan, Manure Management Plan, or Nutrient Management Plan). Development of such plans shall be included in the application if not yet developed prior to the application.
3. The project implements BMP's included in the plan. Priority given to BMP's that reduce or control Nitrogen, Phosphorus, and/or sediment.
4. Ag operations with Animal Concentration Areas (ACA) shall implement BMPs necessary to abate storm water runoff, loss of sediment, nutrients, and other pollutants from the ACA.
5. Proximity to surface waters, public drinking sources or karst geology with underground drainage systems or open sinkholes.
6. The project must meet the design and construction standards established by the NRCS PA Field Office Technical Guide

6. Contracting:

When an application has been accepted and approved by the District board, the District will enter into a contract agreement with the successful program participant. The contract, when signed by both parties, is a legally binding document between the applicant and the conservation district that describes in detail the responsibilities of both parties. No funding transfers can take place with program participants, and no project work can begin, without a signed contract. The contract states the terms and conditions for the project. All contracts must be made using the "Agriculture Conservation Assistance Program Grantee-District Agreement" form that has been approved by the Commission.

By offering the premises for implementation of this project, project participant agrees to allow access, design preparation and implementation of the project, subject to available funds, for the duration of construction and for the time period identified in the contract.

The project participant agrees not to destroy, alter or modify the BMPs, except to perform needed repairs, for the period covered by the contract, nor to undertake any action on land under the project participant's control which tends to defeat the purposes of this contract.

The project participant shall be considered to be in breach of this contract if he/she does not maintain and repair the project in compliance with Operation and Maintenance plan or

willfully neglects any other terms of this contract. The project participant shall be responsible for all normal, routine maintenance and normal, routine repair of the site and project.

Project participant agrees to refund all or part of the program funds paid to them, as determined by the District, if before the expiration of the term of this contract, the project participant (a) destroys, alters or modifies the BMPs installed, or (b) voluntarily relinquishes control or title to the land on which the BMPs have been established, and the new landowner and/or operator of the land does not agree to maintain the BMPs for the remainder of the term of this contract. If the new landowner agrees to assume Landowner's obligations and to maintain the BMPs for the remainder of the term of this Agreement, then a new contract shall be executed by the new landowner/program participant.

This contract shall be binding on the parties, their heirs, legal representatives, successors, and assigns.

The term of this contract shall be for the duration of project construction and for the term of the lifespan of any particular BMP.

Projects will be ranked by the District's Agriculture Technician and District Manager, as outlined in Appendix A of this policy.

7. Project Work:

The following is a list of general pre-project work requirements:

PA One Call must be notified at various stages of the project, including the design phase and also prior to construction. One Call assigns a serial number to each call they receive. These serial numbers must be recorded and kept in the project file.

Many projects will require some type of environmental permit. Program participants are encouraged to work with the District to determine what environmental permits, if any, may be required. Any required permits must be obtained by the grant recipient before advances can be given or work can begin. Under no circumstance can any project work begin until all required permits are in hand.

Some projects may require and Erosion and Sediment Control (E&S) plan. The District will help determine if an E&S plan is necessary.

A. Pre-Construction Meeting:

A pre-construction meeting is required prior to starting construction of a project. This will allow the District to meet in person with the program participants and any contractors or sub-contractors to discuss each contract item or element of the approved plan to avoid any misunderstanding about how the plan is to be implemented and how payment will be made.

B. Notification of Project Work:

Program participants MUST notify the District before beginning work on a project. The District must also be notified before beginning a new phase of the projects. The District may withhold payments and cancelation of the contract if a program participant fails to comply with notification requirements.

C. Performing Project Work:

Program participants must follow the bidding procedures for contractors and materials as outlined in Appendix B of this policy.

Work must be performed in accordance with the accepted application, work plan and/or design unless both parties agree to project changes in writing. The landowner is responsible for oversight of any contractors or subcontractors working on the project. The District will assist with oversight and quality assurance during construction of the project. Work must be performed within the contracted scope, budget and timeframe.

If an extension of time is required, the district must be contacted as soon as possible.

Any contractors or subcontractors may be asked to sign a statement certifying that the installed components meet or exceed the Natural Resource Conservation Service (NRCS) standards and specifications. All contractors or subcontractors are responsible to protect work from environmental conditions such as temperature extremes, weather events, wind, surface water and ground water.

Applicant must sign an agreement guaranteeing long term operation and maintenance of all BMP's funded through this program. Standard O&M documents will be provided on a case by case basis to be determined by the District. These O&M documents will reflect the requirements of the NRCS Field Office Technical Guide and any additional standards set by the Commission.

8. Certification and Final Payment:

Payment shall be made upon satisfactory completion of project for actual services performed consistent with the project application, the work plan and satisfaction of the District.

If a project's BMP(s) require review and certification by a registered professional engineer under the applicable laws or regulations of this Commonwealth, the BMP shall be certified by a registered professional engineer.

Those BMPs required to meet the Natural Resource Conservation Service (NRCS) standards and specifications shall be certified by a technical service provider, staff from the District having the appropriate job approval authority, the USDA-NRCS, or any other qualified person who has appropriate training and expertise and is approved by the Commission.

Payment may be withheld on account of defective work not remedied, liens filed, damage by the Contractors to others.

All claims submitted by the program participant pursuant to this agreement shall be submitted to the District in accordance with the Schedule of Payments and the terms and conditions contained in the approved project agreement. The claims shall be itemized and show that the utilization of funds are in accordance with the approved project application and work plan. Claims shall include receipts, and/or other appropriate supporting information to document actual expenditures on the project. Payments will be addressed to the program participant and any contractors or subcontractors associated with the implementation of the project.

APPENDIX A: ACAP Scoring Sheet

Date:

Applicant Name:

Project Location:

Score:

Does the project meet the goals of the Monroe 2030 County Plan? (Food System Plan & Farmland Preservation sections) (Up to 5 pts)

Food system (3 pts)	0
Farmland Preservation (3 pts)	0
Food system & Farmland Preservation (5 pts)	0

Is the project located in a Special Protection Watershed?

Yes (5 pts)	0
No (0 pts)	0

What is the farmland classification of the majority of soils present in the affected project area? (Up to 5 pts)

Prime Farmland (5 pts)	0
Farmland of Statewide of Importance (3 pts)	0
Farmland of Local of Importance (3 pts)	0
N/A (0 pts)	0

Are the majority of soils affected by the project (within project boundary & immediately downslope) listed in the Highly Erodible Lands index for Monroe County?

Yes (5 pts)	0
No (0 pts)	0

Does the applicant have the following? (Select up to 2)

Conservation Plan (5 pts)	0
Ag. E&S Plan (5 pts)	0
Manure Management Plan (5 pts)	0
Nutrient Management Plan (5 pts)	0
Will be developed as part of the project (0 pts)	0

What Local Priority Best Management Practices will be installed for this project?

Most points - 40

Cover Crop (2 pts)	0
Stream Corridor (within 150') Practices (10 pts)	0
Diversion, Terraces, Waterways (5 pts)	0
Animal Concentration Area Practices (10)	0
Manure Management Practices (5)	0
Rotational Grazing Systems (5)	0
Watering Systems (3 pts*)	0

*only if in combination with Prescribed Grazing (528) Plan or HUA Protection

Is the primary resource concern being addressed by this project located within 500 feet of a stream?

- Within 100 feet (5 pts) 0
- Within 200 feet (4 pts) 0
- Within 300 feet (3 pts) 0
- Within 400 feet (2 pts) 0
- Within 500 feet (1 pts) 0

Is the applicant working with NRCS or another partner agency (PSE, AFT, RC&D, Pheasants Forever, etc.)?

- Yes (5) 0
- No (0) 0

Is the applicant contributing to the project?

- > 50% match (5 pts) 0
- > 40% match (4 pts) 0
- > 30% match (3 pts) 0
- > 20% match (2 pts) 0
- ≥ 10% match (1 pts) 0
- No (ineligible) 0

Scoring Total: 0/85

APPENDIX B: BIDDING PROCEDURES

ACAP is **currently** funded with federal ARPA funds. Federal ARPA funds require bidding procedures. Below are the approved bidding requirements as was approved by the Department of General Services waiver process.

Procurement Method	Expense Amount	Requirements
Micro-purchase	Less than \$10,000	<ul style="list-style-type: none"> • Consider price to be reasonable • Distribute equitably among suppliers to the extent practical
Small Purchase Procedures	\$10,000 - \$249,999	<ul style="list-style-type: none"> • obtain/document price or rate quotations from a reasonable number of qualified sources • written or documented quotes required to be kept in the contract file
Sealed Bids	\$250,000 or more	<ul style="list-style-type: none"> • Bids must be publicly advertised using standard bidding requirements • Bid must allow for a minimum of 15 days for response time • Bids must be solicited from an adequate number of qualified sources • Sealed bids must be opened publicly • Contract award must be made to the lowest responsible bidder • Contract must be for a firm, fixed price

A. Definitions: The following words and terms, when used in this document, have the following meanings, unless the context clearly indicates otherwise:

- **Lowest Bidder/Quote** – A bidder/quote who, in a competitive bidding/quoting situation, submits a bid/quote which, as finally determined by MCCD, is the best bid/quote available in terms of price, product, and/or service quality, adherence to specifications, timeliness of delivery, serviceability and maintenance and other factors that MCCD may establish.
- **Responsible Bidder/Quote** – A bidder/quote is considered responsible either through previous experience in business dealings with the MCCD or through an investigation of the credit, reliability, and performance of the bidder/quote.
- **Responsive Bidder/Quote** – A bidder/quote who correctly and fully responds to the bidding/quoting requirements.

B. Invitation to bid/quote. When it is determined that a project is to be solicited through competitive bidding, an invitation to bid shall be publicly advertised in the Pocono Record and/or Lancaster Farming. Quote invitations will be emailed to a list of interested contractors. The invitation shall include:

- (1) A basic description of the work.
- (2) The quantity of work.
- (3) The method by which specifications and bid/quote documents may be obtained.
- (4) The date, time and place of the bid/quote opening.

(5) Any other specific requirements.

C. Publication requirements. The Landowner shall publish the invitation, approved by the District, in the Pocono Record and/or Lancaster Farming to bid at minimum one time not later than 14 days prior to the scheduled bid opening. Copies of bid/quote package will only be distributed by hard copy, to those interested in submitting a bid/quote and have attended the required bid/quote site showing.

D. Bid/Quote procedure. All bids and quote shall be firmly sealed in an envelope and labeled so as to indicate the specific project for which the bid/quote is submitted and the scheduled date and time of the opening. Bids will only be accepted by mail or in person. Quotes will be accepted by mail, email or in person. Bids/Quote shall be opened at the appointed time noted in the bid publication, per Sunshine law. All bid/quote openings shall be open to the public. Any bids/quotes received after the opening has commenced shall be returned to the contractor unopened. Upon completion of the bid/quote opening, the District Manager, Agriculture Technician and landowner (if desired) will analyze the bid for conformance with the specifications and recommend to the District Board the lowest responsible and responsive bid/quote.

E. Bid/Quote award. The District Board shall review the recommendation of the District Manager and Agriculture Technician and may award a contract to the lowest responsible bidder and responsive bid/quote. All such awards shall be made in a public meeting by the affirmative vote of the majority of the District Board. The District Board shall at all times reserve the right to reject any and all bids/quotes received.

F. Bonds:

Bid/quotes submitted under these procedures shall be accompanied by a bid bond (see exhibit A) in an amount equal to 10% of the contract price, guaranteeing the work to be completed in accordance with the contract. A performance bond in an amount equal to 110% of the contract price, guaranteeing the work to be completed in accordance with the contract. The performance bond will be due 15 days after the award.

G. Certificates of Insurance: **The bid/quote to whom the contract is awarded shall comply with all insurance requirements. The form of the Insurance and the Surety thereon shall be satisfactory to the District. The amount of the Insurance shall not be less than that specified in the contract documents.**

A copy of the Certificate of Insurance shall be furnished to the District by the contractor.

H. Change orders: Requests for a change order of the project shall be done in writing and approved by the District Board before the change is undertaken. The District may alter, add, or subtract portions of the work without invalidating the original contract as long as the contract sum is adjusted accordingly. Extra compensation can be earned if the extra work was unforeseen as a possibility in the original contract and the extra work was performed in compliance with the contract. Change orders shall be limited to no more than 20% of the original contract amount, at the discretion of the District and negotiation with the contractor.