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**AGRICULTURAL CONSERVATION ASSISTANCE PROGRAM (ACAP)
STATEMENTS OF POLICY**

**FOR THE CARBON CONSERVATION DISTRICT**

**ADOPTED BY THE CARBON CONSERVATION DISTRICT BOARD on June 22, 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 Carbon Conservation District (District). These policies set forth are in conjunction with or in addition to the ACAP Guidelines.

1. **Criteria for Equal Access:**

Program updates, deadlines, etc. will be available on the District website, www.carbonconservation.org. Correspondence on program applications will be sent directly to applicant.

Pre-application interest forms, eligible BMP list, and applications will be available on the District website along with the application and ranking schedule.

Initial program announcement and deadline to apply will be made publicly via mailed out fliers, newspaper ad, and by posting on district website.

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

1. **Pre-Application Site Visit:**

The Conservation District will meet with potential program participants on site after the submission of the pre-application interest form to discuss the potential 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.

1. **Application Process:**

All applications for program funding must be received by the District by the applicant filling out the “Agricultural Conservation Assistance Program Application.” The form must be signed by the applicant. Applications will only be accepted for projects that cost less than $50,000. Applications will be taken on an ongoing basis but will be ranked, quarterly, throughout the year. The applications received will be ranked and approved by the Carbon County Agricultural Advisory Committee (AAC). The District has the right to extend deadline dates at their discretion.

The District may retain unfunded ACAP applications on file for up to 3 years for future allocations. The applying entity may update or cancel the application at any time. Project participants may also choose to revise existing submitted applications during application receiving timeframes, see schedule on the District website.

The conservation 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 to ensure they comply with ACAP 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.

The applicant represents and agrees that he/she is the sole owner of the real property on which the project is to be performed, provides proof that any other owners are in full agreement with the application, or has secured a sufficient property interest, including any easements or rights-of-way, 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 are incomplete or 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.

Applications deemed complete and potentially acceptable will be forwarded to the AAC for review and prioritization, then presented to the District Board for final approval. The AAC will review and prioritize applications based on established written criteria and make funding recommendations to the conservation district board.

All applications for funding must be acted on by the conservation district board at a sunshined meeting. All Program participants should be notified in writing of the funding decisions of the conservation district board.

1. **Project Ranking:**

All eligible applications will be ranked in accordance with the following criteria:

* 1. If applicable to the ag operation, the applicant has required plan(s) (Conservation Plan, Ag E&S, MMP, or NMP). Development of such plans shall be included in the application if not yet developed prior to the application.
	2. The project implements BMPs included in the plan. Priority is given to BMPs that reduce or control nitrogen, phosphorus, and/or sediment.
	3. Ag operations with unaddressed ACA’s shall implement BMPs necessary to abate storm water runoff, loss of sediment, nutrients, and other pollutants from the ACA.
	4. Proximity to surface waters or public drinking sources.
	5. The project must meet the design and construction standards established by the Commission.
	6. Projects that have secured funds attached to their project through different sources such as grants, federal cost share programs, etc. will receive higher ranking points.
	7. Projects with a completed cost estimate and/or Inventory & Evaluation (I&E) will receive higher ranking points.
	8. Any other criteria considered by the conservation district, as applicable, and approved by the Commission.

See **Appendix A** of this policy for the Scoring Sheet

1. **Contracting:**

When an application has been accepted and approved by the 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 “Agricultural Conservation Assistance Program Grantee-District Agreement” form that has been approved by the Commission. Grantee has one (1) year to fulfill contractual obligations, otherwise must request a contract amendment.

For any contracted work related to the approved project, the program participant will enter into an agreement with a contractor(s). All contracted work on approved projects must follow the bid/quote requirements established by the Commission and the District Board (see Appendix B). The District will assist the program participant by coordinating the bidding process. The project participant’s failure to follow the bid/quote requirements may result in the District cancelling the contract agreement with the participant.

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 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 BMPs in compliance with the 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 the 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 longest lifespan of any particular BMP.

1. **Project Work:**

The project work shall be completed and certified no later than one year after the contract is signed.

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 prior to construction, by whomever is performing the project work. One Call assigns a serial number to each call they receive. These serial numbers must be reported to the District before starting any project work 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 which 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 an Erosion and Sediment Control (E&S) plan. The District will help determine if an E&S plan is necessary.

1. **Pre-Project Meeting**:

A pre-project meeting is required prior to the beginning 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.

1. **Notification of Project Work**:

Program participants MUST notify the district and provide the PA One Call serial number no later than 14 days before beginning work on a project. The District must also be notified before beginning a new phase of the project, and if applicable, the new serial number must be provided. The District may withhold payments and cancel the Contract if a program participant fails to comply with notification requirements.

1. **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 District is responsible for oversight of any contractors or subcontractors working on the project. Work must be performed within the Contracted scope, budget, and timeframe.

If an increase in costs or extension of time is required, the district must be contacted as soon as possible. At the district’s discretion based on existing policies and funding availability, contracts may be amended for cost overruns up to 20% (twenty percent) of the original Contract amount, or to extend the timeframe for completion. When cost over-runs exceed 20% (twenty percent) of the original Contracted amount, an additional or new Contract will be required. Keep in mind that if a Contract is between $20,800 and $25,000 (barely under the prevailing wage threshold for Contracted work), an amendment may increase the total value of the project so that prevailing wage would apply to Contractor costs.

If applicable, 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.

1. **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 Conservation 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 for 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.

**PROCEDURES FOR ACAP AAC FORMATION & CONDUCT**

1. **ACAP Agricultural Advisory Committee Formation:**

A committee may be appointed by the Conservation District board to advise the program and identify local priorities and opportunities to complement other programs. The AAC in Carbon County will be comprised of one non-voting chairman and three voting members as appointed by the Board. One of the three voting members will be the local Natural Resource Conservation Service representative. The non-voting chairman only gets a vote in instances where there is a tie. The three other local representatives are encouraged to be knowledgeable of agricultural operations and conservation.

1. **Meeting Schedule and Procedures:**

All AAC meetings will be advertised and open to the general public in accordance with the Sunshine Law (Act 84 of 1986 and any amendments thereafter). The AAC may meet on a monthly, quarterly, or an as-needed basis. Specific dates and time will be determined by the members. Additional meetings may be held, or meetings may be cancelled at the discretion of the AAC. All recommendations of the AAC will be presented to the District Board for final approval.

1. **Conflict of Interest**:

If an ACAP Project application involves an applicant that is a district director, AAC member, District staff member or an immediate family member, or a business with which he/she is associated, that individual may not participate in the evaluation, ranking or any deliberation for approval or disapproval of the application, or approval of a reimbursement payment of grant funds. This individual will exclude themselves from voting.

**APPENDIX A: ACAP Application Scoring Sheet**

Date: \_\_\_\_\_\_\_\_\_\_\_\_ Applicant Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Project Location: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Is the project located in High Quality Watersheds?

Yes (5 pts) No (0 pts)

 Does the applicant have the following? (Check up to 4)

□ Conservation Plan \_\_\_\_\_

* No Plan 5
* Outdated Plan 3
* Updated Plan 1
* N/A 0

□ Ag. E&S Plan \_\_\_\_\_

* No Plan 5
	+ - Outdated 3
		- Updated Plan 1
		- N/A 0

□ Manure Management Plan \_\_\_\_\_

* No Plan 5
	+ - * Outdated 3
			* Updated Plan 1
			* N/A 0

□ Nutrient Management Plan \_\_\_\_\_

* + - * No Plan 5
			* Outdated 3
			* Updated Plan 1
			* N/A 0

What Local Priority Best Management Practices will be installed for this project? (2 pts each)

 Cover Crops \_\_\_□

Stream Corridor Practices \_\_\_□

Water Control Practices \_\_\_\_\_\_\_\_\_ □

Watering Systems \_\_\_□

Rotational Grazing Systems \_\_\_□

HUA/ACA/Loafing Lot Management \_\_\_\_\_□

Is the area(s) of most concern within this project within 500 feet of surface or public drinking water?

[ ]  [ ]

[ ]  [ ]

[ ]

Within 100 feet (5 pts)

Within 200 feet (4 pts)

Within 300 feet (3 pts)

Within 400 feet (2 pts)

Within 500 feet (1 pt)

Does the project have additional funds from other sources committed to it? Yes (5 pts) No (0 pts)

Are any sources an in-kind contribution? Yes (3 pts) No (0 pts) List:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Comments:

 **Scoring Total:** \_\_

**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 approved by the Department of General Services waiver process.

**EXAMPLE BIDDING PROCEDURES**

* Micro-purchase – Projects less than $10,000, districts must consider price to be reasonable and distribute equitably among suppliers to the extent practical.
* Small Purchase - Projects between $10,000-$249,000 shall obtain at least three written quotes and kept on record.
* Sealed Bids - Projects with an estimated expenditure of $250,000 or more shall be competitively bid on and publicized.

|  |  |  |
| --- | --- | --- |
| Procurement Method | Expense Amount | Requirements |
| Micro-purchase(No quotes required) | Less than $10,000 | * Consider price to be reasonable
* Distribute equitably among suppliers to the extent practical
 |
| Small Purchase Procedures(Relatively simple and informal) | $10,000 - $249,999 | * 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 | * 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 qualitied 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
 |

1. **Definitions:**
The following words and terms, when used in this document, have the following meanings, unless the context clearly indicates otherwise:
	1. *Lowest Bidder/Quote* – A bidder/quote who, in a competitive bidding/quoting situation, submits a bid/quote which, as finally determined by Carbon Conservation District, is the best bid/quote available in terms of price, product, and or service quality, adherence to specification, timeliness of delivery, serviceability and maintenance and other factors that Carbon Conservation District may establish.
	2. *Responsible Bidder/Quote* – A bidder/quote is considered responsible either through previous experience in business dealings with the Carbon Conservation District or through an investigation of the credit, reliability, and performance of the bidder/quote.
	3. *Responsive Bidder/Quote* – A bidder/quote who correctly and fully responds to the bidding/quoting requirements.
2. **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 local newspaper. Quote invitations will be emailed to a list of interested contactors. 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.
3. **Publication requirements**
The District shall publish the invitation to bid in the local newspaper at minimum one time not later than 14 days prior to the scheduled bid opening. Copies of the 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.
4. **Bid/Quote Procedure**All bids and quote shall be firmly sealed in an envelope and labeled 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 by the District Committee. 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 Executive Director/Program Manager, consultant, and landowner (if applicable) will analyze the bid for conformance with the specifications and recommend to the District Board the lowest responsible and responsive bid/quote.
5. **Bid/Quote award**
The District Board shall review the recommendation of the Agricultural Advisory Committee, Executive Director/Program Manager, consultant, and landowner (if applicable) and may award a Contract to the lowest responsible 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 always reserve the right to reject any and all bids/quotes received.
6. **Certificates of Insurance:**
The bid/quote to whom the contract is awarded shall take out and maintain, during the life of the Contract, adequate Workers’ Compensation Insurance for all employees employed on the project. In the case any work is sublet, the Contractor shall require the subcontractor to provide Workers’ Compensation Insurance for the latter’s employees unless such employees are covered by the protection afforded by the Contractor.

The successful bidder shall also take out and maintain for the life of the Contract any Public Liability and Property Damage Insurance as shall protect the owner, the Contractor, and any subcontractor performing work covered by the Contract from claims for damages, for personal injuries including wrongful death, as well as claims for property damages which may arise from operations under the Contract, whether such operation be by himself or by any subcontractor or anyone directly or indirectly employed by either of them and name Carbon Conservation District as an additional insured. Coverage limits are minimum $1,000,000.00.

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.

1. **Change orders:**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.