



MONTGOMERY COUNTY CONSERVATION DISTRICT

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AGRICULTURAL CONSERVATION ASSISTANCE PROGRAM (ACAP) STATEMENTS OF POLICY FOR THE MONTGOMERY COUNTY CONSERVATION DISTRICT -- ADOPTED May, X 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 District. These policies set forth are in conjunction with or in addition to the ACAP Guidelines.

Policy #1 Program Eligibility:

To be eligible for funding under the ACAP program, applicants must be in compliance with the Clean Streams Law, having all required agricultural plans in place; i.e. Manure Management Plan, Nutrient Management Plan, Ag E&S or Conservation Plan *or* they must be included in the application request for funding. All Animal Concentration Areas on the operation must be treated, or Best Management Practices to treat those Animal Concentration Areas must be included in the application request for funding.

Policy #2 Equal Access:

All eligible applicants will have equal access to all ACAP Program Funds. This will be accomplished through:

1. Applications accepted on a rolling basis year-round. Applications may be submitted to the Montgomery County Conservation District by hard copy mail, email or fax.
2. All applications are ranked according to an established written scoring criteria with the projects receiving the highest rating being funded first.
3. Information, including any application deadlines, shall be publicized in newspapers, social media, at educational events and in various agency publications.
4. Special efforts shall be made to enlist the cooperation of participants through a telephone conversation or a site visit.
5. Prohibit discrimination on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status.

Policy #3 Pre-Application Site Visit:

Prior to ranking or evaluation of a program application, a site visit must be completed by a Conservation District or USDA NRCS (Natural Resources Conservation Service) staff member. The purpose of this site visit is to work jointly with the program participant to ensure that the application being submitted is in the best interest of both entities. This site visit allows the district or NRCS 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 and submitting an application.

Policy #4 Application Process:

All applications for program funding must be submitted on the “Application Form (Montgomery County, PA) Agriculture Conservation Assistance Program”. 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 Montgomery County ACAP Advisory Board Committee (AAB), who will make recommendations to the Conservation District Board of Directors (BOD) for final decision and approval of applications. The District has the right to extend deadline dates at their discretion.

The Conservation District may retain unfunded ACAP applications on file for an allotted timeframe of two 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.

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.

Conservation District staff will review applications for administrative completeness and to ensure they comply with established Program policies and guidance. The location of the project, project description, including BMPs, total cost of the project, the amount and other source 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 Ag Erosion and Sediment Control Plan are required as part of the grant application.

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 any necessary permission, including any agreements, easements or rights-of-way that may be 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.

Applications district staff deem complete and potentially acceptable to the program will be presented to the AAB at their monthly scheduled and sun shined meeting. The AAB will review and rank applications based on established written criteria and make recommendations to the District BOD. AAB recommendations will be presented to the Montgomery County Conservation District BOD at their monthly meeting. All Program participants should be notified in writing of the funding decisions of the Montgomery County BOD.

Policy #5 Project Ranking:

The ranking criteria outlined in Appendix A of this document will be used to rank all received applications.

Policy #6 Funding Rate:

Project cost reimbursement is made for approved Best Management Practices (BMPs) outlined on the State Conservation Commission Best Management Practices List or otherwise approved by the commission which are installed to meet the NRCS Design Standards and Specifications. Approved Best Management Practices (BMPs) will be paid at a 90% reimbursement rate of total project cost, up to the amount listed in the Grantee-District Agreement. The remaining 10% can be covered by the program participant in the form of cash match, in-kind time, project planning/engineering costs or necessary project materials. Project engineering and planning costs that are incurred for preparation of the approved BMPs may be included in the application, up to a maximum amount of 10% of the total project cost.

Policy #7 Prevailing Wage:

Projects funded by ACAP funds in which the estimated cost of the total project (materials, equipment and labor), exceeds prevailing wage limit of \$25,000 are subject to provisions of Pennsylvania's Prevailing Wage Act. Agricultural operators and their employees are not subject to prevailing wage rates.

Policy #8 ACAP Funding Categories:

Program funds will be divided into the following categories:

1. Best Management Practice implementation and planning project costs: 80%
2. Administrative Costs: 6%
3. Technical Assistance: 14%

Policy #9 Contracting:

When an application has been accepted and approved by the Conservation District Board of Directors, the conservation district will enter into a contract agreement with the 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-

Conservation District Agreement” form that has been approved by the State Conservation 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 necessary repairs, for the period covered by the contract, nor to undertake any action on land under the project participants control which tends to defeat the purposes of this contract.

The project participant shall be considered in breach of this contract if he/she does not maintain and repair the project in compliance with the Operation and Maintenance plan or willfully neglects any other terms of this contract. The project participants 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 conservation 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 the project construction and for the term of the longest lifespan of any particular BMP.

Policy #10 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.

A. 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.

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 cancellation 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 District is responsible for oversight of any contractors or subcontractors working on the project. Work must be performed within the contract 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 percent of the original contract amount, or to extend the timeframe for completion as funds remain available. When cost overruns exceed 20 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.

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 groundwater.

Policy #11 ACAP Setback Policy:

When a buffer is included in the applicants Ag E&S, Conservation Plan, Nutrient Management Plan or Manure Management Plan, any ACAP applicant receiving funding for an animal waste storage BMP or heavy use protection area (barnyard) BMP, must as a condition of their ACAP contract agree to install and maintain an average of 35' setback from streams and other waterbodies on the farm property where the BMP(s) is being installed to ensure that livestock do not have unrestricted access to streams or waterbodies.

Access to water, such as a watering system, a stream or other water body on the farm property where an animal waste storage or heavy use protection BMP is funded by ACAP must be specifically provided for in the eligible applicant's Ag E&S, Conservation Plan, Nutrient Management Plan or Manure Management Plan.

An eligible applicant may request a waiver from the Commission for these setback requirements if the eligible applicant can demonstrate no livestock will have access to any streams or water bodies based on management plans and husbandry practices (e.g. total confinement operations, etc.) or that specific unique site conditions (topography, etc.) are such that a 35' setback is not necessary to protect water quality.

Policy #12 Implementation Timeline:

The grantee has one year from signed contract to have all final project designs and engineering in place and begin construction on the approved project. Program funds will be allocated to the approved project for two years from signed contract date. If funds are not used within this timeframe, money will be returned to the District. Extensions for extenuating circumstances will be considered.

Policy #13 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 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 to 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.

Policy #14 ACAP Advisory Board Committee Formation:

The Montgomery County ACAP Advisory Board Committee has been appointed by the Montgomery County Conservation District Board of Directors to advise the program and identify local priorities and opportunities to complement other programs. The Montgomery County AAB will be comprised of at least the following members: two staff members of the Conservation District, one local representative of the United States Department of Agriculture Natural Resources Conservation Service and at least one member of the Conservation District Board of Directors who are knowledgeable of agricultural operations and conservation.

Policy #15 Conflict of Interest:

If an ACAP Project application involves an applicant that is a district director, LAW member or 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.

Policy #16 Meeting Schedule and Procedures:

The AAB will meet on the first Wednesday of each month at 10:00AM at the Montgomery County Conservation District office, 143 Level Road Collegeville, PA. The initial meeting will take place March 1, 2023. If no applications are received and there is no business to discuss, meetings may be cancelled at the discretion of the AAB and notice will be posted. Minutes of the ACAP Advisory Board Committee Meetings will be available to the public. Application ranking and recommendations made by the AAB will be presented to the Montgomery County Conservation District Board of Directors at their monthly meeting held the second Thursday of each month.

APPENDIX A: ACAP Scoring Sheet

Date:

Applicant Name:

Project Location:

Score :

Is the applicant in compliance with the PA Clean Streams Law and Chapter 91 Manure Management Regulations? Do they have a MMP/NMP if livestock and Ag E&S/Conservation Plan if plowing or tilling greater than 5000 square feet? Most points - 10

Yes, all required plans are in place (10 pts) 0

No (0 pts) 0

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

Most points - 30

Cover Crops (5 pts) 0

Stream Corridor Practices (5 pts) 0

Erosion Control Practices (5 pts) 0

Rotational Grazing Systems (5 pts) 0

Animal Concentration Area Practices (5 pts) 0

Manure Management Practices (5 pts) 0

Proposed Best Management Practice distance to surface water which addresses water quality concern by reducing Nitrogen, Phosphorus or sediment:

Most points - 15

Within 100 feet (15 pts) 0

Within 200 feet (8 pts) 0

Within 300 feet (3 pts) 0

Within 400 feet (2 pts) 0

Within 500 feet (1 point) 0

Is the farm protected by an existing conservation easement? Most points - 10

Yes (10 pts) 0

No (0 pts) 0

Is there an existing riparian buffer (minimum average 35ft width) along streams on property or will the project establish these buffers or work with the conservation district in another capacity to install riparian buffers? Most points - 10

Yes (10 pts) 0

No (0 pts) 0

Are finalized projects designs and engineering in place? Most points - 10

Yes (10 pts) 0

No (0 pts) 0

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.

EXAMPLE BIDDING PROCEDURES

Procurement Method	Expense Amount	Requirements
Micro-purchase (No quotes required)	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 (Relatively simple and informal)	\$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

- 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 and publicized.

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 Times Herald, 307 Derstine Ave. Lansdale, PA 19446. 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.

C. Publication requirements. The District shall publish the invitation to bid in the Times Herald, 307 Derstine Ave. Lansdale, PA 19446 at minimum one time not later than 15 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. Bids/Quotes will be accepted by mail, fax, email or in person. Bids/Quote shall be opened at the appointed time by the Montgomery County Conservation District ACAP Advisory Board Meeting 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 District Manager/Program Manager, consultant and landowner (if applicable) will analyze the bid for conformance with the specifications and recommend to the District Board of Directors the lowest responsible and responsive bid/quote.

E. Bid/Quote award. The District Board shall review the recommendation of the AAB, District Manager/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 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 take out and maintain during the life of the contract, adequate Workman's Compensation Insurance for all employees employed on the project and, in case any work is sublet, the contractor shall require the subcontractor to provide Workmen's 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 the 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 Montgomery County Conservation District as an additional insured. Coverage limits minimum \$1,000,000.

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 ACAP Advisory Board Committee 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, as funds allow, at the discretion of the District and negotiation with the contractor.