Pike County
Conservation District

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Agricultural Conservation Assistance Program (ACAP) Policy & Procedures

(Adopted by the Pike County Conservation District Board on April 17, 2023. Revised March 17, 2025.)

Purpose: 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 Pike County Conservation District (District). These policies set forth are in conjunction with or in addition to the ACAP Guidelines. Districts have the ability to adjust this document to fit the needs of their county.

1. **Criteria for Equal Access.**
   - **a.** An eligible Applicant shall not receive in excess of $500,000 in any given year without prior approval from the Commission.
   - **b.** Correspondence on program and project updates and examples shall be sent to all eligible Applicants.
   - **c.** The application with a specific deadline shall be sent to all eligible Applicants.
   - **d.** Special efforts shall be made to enlist the cooperation of participants through a telephone conversation or a site visit.
   - **e.** Information, including any application deadlines, shall be publicized in newspapers, social media, radio, and various agency publications.
   - **f.** All Pike County farming operators/landowners are eligible to apply for funding under the Program to implement the Best Management Practices (BMPs) within the ACAP guidelines approved by the State Conservation Commission.
   - **g.** No discrimination shall be made based on race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status.
   - **h.** Any District employee or District Director will not evaluate, rank, or participate in any deliberation for approval or disapproval in which they or any direct family member has financial tie or stand to benefit from the completion or lack of completion of a project funded by the Program.
   - **i.** An Applicant represents and agrees they are 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-way, necessary to grant access for the completion and maintenance of the project. If they are not the sole owner of the property, the Applicant must complete the "Landowner Concurrence Form" and submit it with their application for funding.

2. **Pre-Application Site Visit.**
   The District will meet with potential program participants on site 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 Applicant to ensure 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 potential Program Participant has invested a large amount of time and resources in developing an application.

3. Application Process.

All applications for program funding must be received by the District on the "Agricultural Conservation Assistance Program Application" and must be signed by the Applicant. Applications will be taken on an ongoing basis but will be ranked within 90 calendar days of receipt of a complete application, unless extenuating circumstances prevent the District from doing so. The applications received will be ranked by the ACAP Local Advisory Committee (LAC) and approved by the District Board. The District has the right to extend deadline dates at their discretion. Also within 90 calendar days, the Applicant will be notified of approval for the project and the total amount of funds approved. The District shall notify the Applicant of an incomplete application and the determining factors to be addressed before re-submission within 10 business days of receipt of the application.

District staff should review applications for administrative completeness and ensure they comply with established Program policies and guidance. The location of the project, description of the project, including Best Management Practices (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 agriculture erosion and sediment control plan are required as part of the grant application.

The District may retain unfunded ACAP applications on file for up to 2 years for future allocations. Applicants may update or cancel the application at any time. Applicants may also choose to revise existing submitted applications.

The Commission and/ or 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 work with Applicants 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 Applicant 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.

4. Project Ranking.

Applications District staff deem complete and potentially acceptable to the program should be forwarded to the District ACAP LAC for review and prioritization. The LAC 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 District Board at their next regularly scheduled meeting. All Applicants will be notified in writing of the funding decisions of the conservation district board.

All eligible applications will be ranked according to the following procedure:

- **a.** The ranking tool "Pike County ACAP Scoring Sheet" will be used, which contains ranking questions determined by the SCC ("ACAP" questions) and the Workgroup ("Local" questions).
- **b.** Local questions, as determined by the LAC, may be modified or updated as new priorities are established or to meet overall program changes.

5. Prevailing Wage.

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.

6. Contracting.

When an application has been accepted and approved by the District Board, the District will enter into a Contract agreement (Contract) with the successful Program Participant. The Contract, when signed by both parties, is a legally binding document between the Applicant and the 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. Once the District Board has approved the Contract and it has been signed by the District, a copy will be provided to the Applicant. The Applicant must sign and return the Contract within 30 calendar days of receipt. If the signed contract is not returned to the District within 30 calendar days of receipt, the Contract will be considered withdrawn by the Applicant from consideration for the current allocation but could be considered again for future allocations if requested by the Applicant.

By offering the premises for implementation of this project, Program 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. Upon approval of an application, the delegated District will enter into a Contract with the Applicant for a term not to exceed two (2) years.

The Program Participant agrees not to destroy, alter, or modify the best management practices, except to perform needed maintenance and repairs, for the period covered by the Contract, nor to undertake any action on land under the Program Participants control which tends to defeat the purposes of this Contract.

The Program Participant shall be considered to be in breach of this Contract if they do not maintain and repair the project in compliance with the Operation and Maintenance plan or willfully neglects any other terms of this Contract. The Program Participant shall be responsible for all normal, routine maintenance and normal, routine repair of the site and project.

Program 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 and/ or the end of lifespan for BMPs installed using program funds as outlined in the Contract, the Program Participant:

a. Destroys, alters, or modifies the BMPs installed

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 terms of this contract shall be for the duration of project construction and for the term of the longest lifespan of any BMP in the Contract, not to exceed 10 years.

7. Bidding Procedures.

The District will comply with bidding procedures as set forth in the District Bid Policy. Bidding is not required for engineering services used for plan writing which are funded using technical assistance funds from ACAP.

8. Project Work.

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

a. PA One Call.

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.

b. Permits.

Some projects may 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 Program Participant before advances can be given or work can begin. Under no circumstance can any project work begin until all required permits are obtained.

The District requires all projects to have an Erosion and Sediment Control (E&S) plan completed prior to work beginning on the project and for the E&S plan to be on site at all times during construction.

c. 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 Subcontractors 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.

d. 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 cancel the Contract if a Program Participant fails to comply with notification requirements.

e. Performing Project Work.

Program Participants must follow the bidding procedures for Contractors and materials as outlined in the District Bid Policy.

Work must be performed in accordance with the accepted application, work plan, and/or design unless Program Participant and the District agree to project changes in writing. Work must be performed within the Contracted scope, budget, and timeframe.

Program Participants will be responsible for ensuring compliance with all local, state, and federal permits and regulations.

f. Nonpollution Standard.

The LAC has adopted standards prohibiting the use of materials or practices which are environmentally harmful or do not meet the program's "non-pollution" standard. These materials include, but are not limited to, noxious weeds, fugitive emissions, and dust control products which may pose a problem if they enter a waterway. Compliance with all existing environmental laws is a condition of purchase under the Contract agreement between the Conservation District and the Program Participant. An environmentally suitable substitute for dust control, as determined by the Commission, may qualify for payment.

g. Amendments.

If an increase in costs or extension of time is required, the District must be contacted as soon as possible. A written request must be submitted to the District prior to completion of the Contract. At the District's discretion based on existing policies and funding availability, Contracts may be amended for cost overages of up to 20% percent of the original Contract amount, or to extend the timeframe for completion.

i. **Cost Overages of up to 5%.** District Staff, in consultation with the District Manager and District Board Chairperson, can approve contract funding increase amendments for up to 5% of the ACAP Contract. District Staff will update the District Board at the next scheduled District Board Meeting with any amendment approvals.

ii. **Cost Overages of 5% to 20%.** Amendments requesting an increase in funding between 5% and 20% of the original Contracted amount must be reviewed by the LAC and then presented to the District Board for final approval.

iii. **Cost Overages Greater Than 20%.** When cost overages exceed 20% percent of the original Contracted amount, prior approval from the Commission is necessary before the funds can be allocated or 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.

iv. **Time Amendments.** District Staff, in consultation with the District Manager and

District Board Chairperson, can approve time extension amendments. District Staff will update the District Board at the next scheduled District Board Meeting with any amendment approvals.

h. Contractors/ Subcontractors.

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 for protecting work from environmental conditions such as temperature extremes, weather events, wind, surface water and ground water.

The Program Participant is responsible for ensuring subcontractor(s) have valid and sufficient liability insurance.

i. Reimbursements.

Applicant owned, heavy equipment will be reimbursed at a specific equipment rate in accordance with the current FEMA schedule and District approved machinery.

The District Board will have the final approval in determining reasonable equipment reimbursement rates. The purchase of equipment for individual landowners is not eligible for program funding.

All landowner requests for their own labor and/ or equipment reimbursement must be documented on the approved ACAP landowner reimbursement form, detailing the date, worked/used, employee name/equipment type, description of work performed, amount of time worked, rate/hour; total by day, and overall project total summary.

All labor hours submitted, and equipment hours used will be reviewed by the District staff for reasonable time allotted and requested amount may be revised by the District staff to reflect the final reimbursement determination.

9. <u>Best Management Practices.</u>

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.

All BMPs cost shared by the District are to be used according to the purpose and design on the conservation practice standards. Funding for future projects may be denied if practices are not used according to the operation and maintenance in the farmer's plan.

a. BMP destruction and/or failure to operate and maintain BMPs for their intended use will result in ineligibility for all District programs for as long as the BMP is out of compliance

and/or repayment of grant funds.

b. Straw bales for bedding may be stored under roofed Heavy Use Areas in a quantity up to 1 month's worth of bales at a time. If more than 1 month's worth are stored under roof at one time, the farmer will be deemed out of compliance with the operation and maintenance plan.

10. Inspections.

ACAP funded projects are subject to inspection by the SCC or the PCCD.

11. 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.

Payment may be withheld on account of defective work not remedied, liens filed, and 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 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.

12. Recordkeeping.

All successful Applicants are required to maintain all records and receipts for all funded project costs for the longest lifespan of any installed BMP under the ACAP Program and for a minimum of 5 years.

PROCEDURES FOR ACAP LOCAL ADVISORY COMMITTEE (LAC) FORMATION & CONDUCT

1. **ACAP LAC Formation:**

   A committee may be appointed by the District Board to advise the program and identify local priorities and opportunities to complement other programs. The LAC in Pike County shall include, at a minimum, one staff member of the Conservation District, one local representative of the United States Department of Agriculture Natural Resources Conservation Service (NRCS), and may include up to three other local representatives who are knowledgeable of agricultural operations and conservation. The non-voting chairperson only gets a vote in instances where there is a tie.

2. **Meeting Schedule and Procedures:**

   All LAC 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 LAC may meet on a monthly 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 LAC. All recommendations of the LAC must be presented to the District Board for final approval.

3. **Conflict of Interest:**
   If an ACAP application involves an Applicant that is a District director, a LAC member, a District staff member, an immediate family member of any of the aforementioned, or a business with which they are 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.