

REQUEST FOR PROPOSALS (RFP)

CAFO Waste Storage and Transfer System Program

New York State Department of Agriculture and Markets

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1. INTRODUCTION

1.1 Overview

This Request for Proposals (RFP) applies to proposals submitted for funding consideration from the Clean Water Infrastructure Act.

The New York State Department of Agriculture and Markets invites Soil and Water Conservation Districts to submit proposals for funding under the CAFO Waste Storage and Transfer System Program. Program funds are available for the implementation of Waste Storage and Transfer Systems and associated practices on facilities regulated by one of the New York State Department of Environmental Conservation SPDES CAFO General Permits (GP-0-16-001 or GP 0-16-002) ("CAFO General Permits") that do not currently have a minimum storage capacity of six months for all their livestock covered by their CAFO General Permit.

Availability of funding for this program is from the State Fiscal Year 2017-2018 Budget which includes an appropriation for this purpose.

1.2 Goal of the Program

The goal of the CAFO Waste Storage and Transfer System Program is to provide cost-share funds through Soil and Water Conservation Districts to concentrated animal feeding operations (CAFOs) for the implementation of water quality protection projects that will establish manure storage capacity and/or reduce/prevent the nonpoint source contribution from agricultural activities.

1.3 Available Funding

Funding in the amount of \$50,000,000 will be available for the implementation of Waste Storage and Transfer systems on farms regulated by CAFO General Permits. In the first proposal period, \$20,000,000.00 will be available for eligible projects. Funding in the amount of \$15,000,000 will be available in the second and third proposal periods. The maximum state award will be \$385,000.00 per proposal. This amount includes the costs for personnel, consulting, engineering services, other direct expenses, and BMP Implementation.

1.4 Eligible Applicants

Proposals for funding will be accepted from Soil and Water Conservation Districts, who will be referred to as "Project Sponsors." It will be the Project Sponsor's responsibility to ensure project completion and necessary reports are accepted and filed with the New York State Soil and Water Conservation Committee.

2. DESCRIPTION OF WORK TO BE PERFORMED

2.1 Eligible Projects

Proposals must be on behalf of one farm only; no multi-farm proposals will be accepted. Soil and Water Conservation Districts are not limited in the number of proposals per each proposal period. Participating farms must be regulated by one of the CAFO General Permits and will need to provide the SPDES ID Number. At the time of proposal, applicants must use the Comprehensive Nutrient Management Plan (CNMP), as-built documents, and/or other design documents to calculate the whole farm storage duration currently in operation for the entire farm (i.e., the number of months of whole farm storage based on the manure and process wastewaters generated by all animals on the farm and all manure storages, whether or not a particular animal

group's manure is ever managed by a particular storage on a farm.) Farms with a whole farm storage duration of six months or more are not eligible to apply.

The CAFO Waste Storage and Transfer System Program requires that participating farms be in compliance with all federal, state, and local laws, rules, and regulations. Applicants must be considered in compliance with the appropriate CAFO General Permit requirements to be considered for funding. Funding cannot be provided to a CAFO that has an unresolved Notice of Violation under the terms of the CAFO General Permits. In cases where an enforcement action is underway, in order to be considered eligible for funding, a Consent Order with a compliance schedule must be enacted or the Notice of Violation must otherwise be resolved.

Waste Storage and Transfer Systems proposed must be designed to provide six months of storage. A farm may propose to implement more than one Waste Storage and Transfer System within the same application, however, the total state award cannot exceed \$385,000.00. Proposed projects need to address the current herd size and not planned or future herd size. The Agricultural Best Management Practice Systems Catalogue shall serve as guidance for selection of component practices to be installed as part of the Waste Storage and Transfer System. The Agricultural Best Management Practice Systems Catalogue has been made available as a download on Sharepoint.

If the farm will be implementing an earthen manure storage, a synthetic liner will be a required component.

BMPs to be implemented on rented property should not be submitted for funding unless there is a written lease for the use of the property for the life span of the BMP (10 years).

2.2 BMP Operation and Maintenance Guidelines

A BMP that is funded by the CAFO Waste Storage and Transfer System Program must be maintained and properly operated for the conservation purposes for which the practice was approved. The project sponsor must ensure that active BMPs, at a minimum, be operated and maintained by the Landowner and/or Operator for the lifespan period. For more information on BMPs including life spans please refer to the Agricultural Best Management Practice Systems Catalogue.

If project is selected for funding and is completed pursuant to approved scope and budget, the farmer agrees to operate and maintain the BMP system for the purpose intended for at least the system's designated lifespan (10 years).

If project is selected for funding and is completed pursuant to approved scope and budget, the farmer agrees to have his CNMP updated to reflect the new waste stream volumes and nutrient levels, as well as, spreading schedules. The farmer agrees to have updates as required for the lifespan of the system.

If project is selected for funding and is completed pursuant to approved scope and budget, the District agrees to evaluate the project as necessary for the designated lifespan to ensure that the farmer is operating and maintaining the system and the system is performing as designed and constructed and is fulfilling its intended use.

2.3 Eligible Costs

Applicants can request up to \$10,500.00 for personal services (i.e., contract administration), as well as up to \$24,500.00 for other services (i.e., SWCD technical services, professional engineer services, consultant services, legal services). If the service categories are not maximized, remaining funds may be applied to the BMP Implementation category. The maximum total state contribution cannot exceed \$385,000.00.

Eligible expenses include:

- Architectural and/or engineering services
- Consultant and legal services

- Personal and Technical services to implement individual farm-level BMP systems
- Other direct expenses related to implementation (e.g., funding for erosion and sediment control plans, cultural resource impact determinations for ground-disturbing BMPs).
- Implementation expenses
 - o Site Preparation
 - o Construction of structural components
 - o Waste Storage Closures

State assistance payments may not be used to cover the lease or purchase of equipment not directly related to the function of the BMP. If the equipment is directly related to the function of the BMP, state assistance payments can be used. Equipment costs may also be an eligible match contribution. Manure application equipment will not be considered for funding, but can be considered as part of the farmer’s match if the system being implemented requires the farmer to purchase a different type of spreader or equipment (e.g., liquid spreader). It is advisable for applicants to request clarification on the eligibility of specific equipment during the open questions and answers period and all determinations will be added to the Questions and Answers document.

The landowner and/or operator is solely responsible for the costs associated with the operation and maintenance of BMPs. These costs cannot be reimbursed by the State or used as a match to State funding.

2.4 Match Requirements

The State will provide a maximum of 75 percent of the total eligible costs for the project, not to exceed \$385,000.00. The State funded contribution in dollars or percentages cannot increase because of budget changes or variations. This program requires that a minimum 25 percent of the total eligible costs be contributed by the landowner, operator, and/or project sponsor. This contribution may be in the form of cash, or in kind services which are calculated using an assigned cash value. An assigned cash value provided by the landowner or operator must be reasonable and is subject to adjustment by the department. If the Project Sponsor will be contributing to the 25 percent match, the contribution may be in the form of in-kind services and/or cash (non-state funds). Recommended or actual hourly rates (see pg. 11) may be used to determine the value of Project Sponsor in-kind services. A written commitment for other required funds or resources must be provided before the funding allocations will be finalized.

Sponsor and landowner contributions and expenditures that were made or incurred prior to the contract start date or after contract completion, as designated by the Department of Agriculture and Markets (Department), may not be utilized as matching funds or reimbursed by the State.

3. PROPOSAL FORMAT, CONTENTS AND SUBMISSION

3.1 Submission Timeline

Proposals for funding will be accepted during the following Open Proposal Periods:

First (#1) Proposal Period: September 15, 2017 – November 20, 2017

Second (#2) Proposal Period: May 1, 2018 – August 1, 2018

Third (#3) Proposal Period: January 1, 2019 – April 1, 2019

Proposals for funding under the CAFO Waste Storage and Transfer System Program must be received by **4:00 PM local time on the last day of the Proposal Period in order to be considered for funding during that proposal period.**

3.2 Submission Method

Incomplete proposals will be returned to applicants. Applicants are responsible for the timely submission of proposals. Proposals will be accepted only during an Open Proposal Period. Faxed or digital (e-mailed or uploaded) proposals will **not** be accepted. Incomplete (or late proposals) may be completed and re-submitted during subsequent proposal periods.

Envelopes should be clearly marked “RFP0157 – CAFO Waste Storage and Transfer System Program - <County SWCD>”. One original and one copy of the proposal in its entirety must be submitted to:

Lisa Brooks, Director
Fiscal Management
NYS Department of Agriculture and Markets
10 B Airline Dr.
Albany, NY 12235

3.3 Questions and Answers

Prospective applicants with questions concerning this RFP should present those questions to:

Bethany Bzduch
New York State Soil and Water Conservation Committee
10 B Airline Dr.
Albany, NY 12235
(518) 457-3738 (phone)
Bethany.bzduch@agriculture.ny.gov

All questions shall be submitted to Bethany Bzduch one week prior to the last day of each proposal period (November 13, 2017, July 25, 2018, and March 25, 2019). All questions must be submitted in writing (e-mail will be accepted.) Applicants should note that all clarifications are to be resolved prior to the submission of a proposal and review of the Questions and Answers document is encouraged. A list of questions about the RFP, answers to those questions as well as any addenda to the RFP, will be added to a Questions and Answers Document and posted to the NYS Department of Agriculture and Markets website <http://www.agriculture.ny.gov/RFPS.html> under CAFO Waste Storage and Transfer System Program. This document will also be uploaded to the NYS SWCC Sharepoint site. Hard copies can be requested by contacting the Program Manager. All questions and answers shall be incorporated into the RFP as a formal addendum.

3.4 Proposal Format

Applicants **MUST** submit the completed project **APPLICATION FORM** with the following attachments:

- Additional financial information as determined by Part E: Financial Status of the farmer;
- the completed budget form with cost share amounts and source of sponsor and landowner contributions noted, and designation of match as cash (C) or in-kind (IK) (Form SW-2);
- a list of all BMP System(s) and Component Practices for the farmer indicating the type and cost (Form SW-3);
- completed project personnel worksheet (Form SW-4);
- SWCD Resolution
- Farmstead or field map that shows the proposed project area
- Cultural Resources (SHPO) map that shows the location of the proposed project area.

All items listed above are essential required elements of the proposal. Failure to provide any of the items by the designated deadline(s) will constitute an incomplete proposal and the proposal will be returned to the applicant. The proposal may be re-submitted to the subsequent phase for funding consideration.

3.5 Proposed Budget

A Project Budget Form (SW-2) and a BMP Implementation List (SW-3) must be completed for each project submitted. These forms should indicate State assistance payments requested by expenditure category, and the amount, type (cash or in-kind) and source (SWCD, landowner, EQIP) of the Project Sponsor's and landowner's matching contribution. Please refer to the "Match Requirements" section of this RFP for additional information.

Contingency funds will not be available through the CAFO Waste Storage and Transfer System Program to cover cost overruns. The Department will not award additional funds for projects if costs exceed estimates.

3.6 Cultural Resource (SHPO) Map Instructions

For self-determination, please see the attached *Instructions for Using NYS Cultural Resource Information System website*. Copy and paste the map into a Microsoft document (e.g., Word, Publisher, etc.) and include the following information:

- CAFO Waste Storage and Transfer System Program Proposal Period #
- Farm or Landowner Name
- BMP System Title(s)

If the project is located in an archeological sensitive area, further review will be required if the project receives funding. Funds may be included in the project budget under Other Direct Expenses to cover the additional expenses within the funding cap. Instructions for submitting the project for review will be provided after project awards are made.

4. EVALUATION CRITERIA AND METHOD OF AWARD

4.1 Funding Criteria

Proposals will be accepted during three separate application periods or until all available funds have been encumbered. To be considered for funding, the proposal form and all necessary supporting documentation must be submitted by the designated due date. If proposals are found to be incomplete they will be returned to the applicant and not considered for funding during the current application period.

Scoring is based on the Proposal Rating Sheet. The Evaluator(s) will record proposal scores in each of the three scoring categories. Within each application period, consideration will be given to the following factors in rating proposals:

1. Identified Needed (10 points)
2. Scope of work and timeframe (2 points)
3. Project cost effectiveness (3 points)

The total score will be determined by adding together the scores from the three categories. The maximum available total score is 15 points. Applications will then be ranked by their total score from highest to lowest to make up the Funding Order. Proposals must score a minimum of 4 points to be considered eligible for funding. If a proposal receives less than 4 points it will be returned to the applicant and not considered for funding during the current application period.

5. AWARDS

- Awards will be made by the following dates:
 - o December 18, 2017
 - o September 1, 2018
 - o May 1, 2019
- Only one award will be given per CAFO permittee (i.e., per CAFO SPDES ID Number) for the duration of the program.
- All proposals will be reviewed for eligibility and completeness based upon the attached Applicant Checklist.
- All projects determined to be eligible shall receive funding for approved project costs until all funds designated for the proposal period are exhausted.
- The Department will make all final eligibility and award determinations.
- Once a proposal has been selected for funding, the Department will notify the applicant of the need to provide information necessary to complete the contract.
- If the SWCD is unsuccessful in negotiating a contract which will achieve the deliverables in a manner consistent with the proposal as approved by the Department, the Department reserves the right to rescind its approval of the proposal.
- If funding designated for the proposal period is not exhausted, all remaining funds will be rolled into the subsequent proposal period.

The Department reserves the right to evaluate the program after the first proposal period for a possible redistribution of funds.

6. CONSIDERATIONS

6.1 Contracts

Payments cannot be made until the contract is fully executed. A minimum of 10 percent of the State assistance payment will be withheld pending satisfactory completion of the contract.

Letters of commitment from the project sponsor, landowner/operator, employers of all personnel, and other entities providing monetary or technical assistance must be submitted.

The standard term for implementation projects will be three full construction seasons plus three months for project administration and completion of the final report. The contract start date will be based on the date of award for each application period. The project sponsor may submit a written request for a different term, if necessary. Funding of proposals that extend over more than one State fiscal year will be subject to the re-appropriation of funds.

6.2 Payment

Payment for invoices submitted by the **Contractor** shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The **Contractor** shall comply with the Comptroller of the State of New York's procedures to authorize electronic payments. **Contractor** acknowledges that it will not receive payment on any invoices submitted under this Agreement if it does not comply with the Comptroller of the State of New York's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

6.3 Reporting Requirements

Department staff will monitor the progress of each funded project.

The Department reserves the right to modify the reporting requirements during the course of the project. At a minimum, progress reports will be required two (2) times per year as specified by the State Committee. In addition, an original comprehensive final report will be required within sixty (60) days following completion of the project. For all projects, the final report shall include a final budget report detailing expenditures; a Project Completion Report (reviewed and signed by Department staff); a description of the work completed and problems encountered, if any, and such other information as the Department may deem necessary.

Final reports for implementation projects shall also include photographs of the work site before and after construction, BMP Procurement Records, Farm Expenditure Summary, and the Consultant Engineer's Certification of BMP(s).

The Department reserves the right to conduct a follow-up evaluation of funded projects in order to determine long-term impacts.

The Department and Comptroller's Office reserves the right to audit the Project Sponsor's books and records relating to the performance of the project during and up to six (6) years after the completion of the project.

6.4 NYS Master Contract

New York State has developed a standard "Master Contract" containing standard clauses required in all State Contracts. The Master Contract will be executed for all projects awarded under the CAFO Waste Storage and Transfer Program, and applicants are responsible for complying with the terms and conditions contained therein.

6.5 Other Considerations

A. Liability

The State will not be held liable for any costs incurred by any District for work performed in the preparation of and production of a proposal, or for any work performed prior to the formal execution of a contract.

B. Freedom of Information

All proposals submitted and all related contracts and reports may be subject to disclosure under the Freedom of Information Law.

C. Reservations

The Department reserves the right to:

- reject any or all proposals received with respect to this RFP;
- disqualify any applicant whose conduct and/or proposal fails to conform to the requirements of the RFP;
- request from an applicant additional information as deemed necessary to more fully evaluate its proposal;
- amend the program's specifications after their release, with appropriate written notice to all potential applicants;
- waive any requirements that are not material;
- waive or modify minor irregularities in proposals received after prior notification and concurrence of the applicant;
- seek clarifications and revisions of proposals;
- select only certain portions of proposals for State funding;
- negotiate the terms of any agreement proposed by the applicant;
- negotiate the terms of the budget;
- eliminate and mandatory, non-material specifications with which all applicants cannot comply;
- make an award under the RFP in whole or part; and
- make all final decisions with respect to the amount of State funding and the timing of payments to be provided to an applicant.

All eligible proposals submitted in response to this RFP will become the property of the Department.

CAFO Waste Storage and Transfer System Program Grant Hourly Rate Recommendation

The following rates were acquired from SWCDs as a result of our inquiry as part of the 2016 annual reports submitted.

The new hourly rates which can be used by SWCDs, in lieu of providing justification for calculating their actual salary, benefit and overhead, to calculate total personnel services costs for CAFO Waste Storage and Transfer System Program are as follows:

	<u>Hourly Rate</u>	<u>Overhead</u>	<u>Total</u>
Managerial	\$53	\$5	\$58
Technical	\$35	\$5	\$40
Secretarial	\$36	\$5	\$41
NRCS Area Engineer	\$70	\$5	\$75

In the above figures, the NRCS Area Engineer Rate and all of the \$5 per hour overhead rates cannot be paid with State funds but needs to be shown in the Sponsor column under Engineering and Overhead Expenses. The budget form provides a column for the \$5 per hour overhead figures. The remainder of the hourly rate figures for each category (i.e., Managerial - \$53, Technical -\$35, and Secretarial -\$36) can be requested for State funding as long as there is adequate match in the grant.

Districts may use their actual salary, benefit and overhead figures in lieu of the above set rates. In those cases, full documentation must be provided to obtain payment. In cases where interns, seasonal or part-time employees are used, actual hourly rates will have to be used and justified. Districts that employ a certified Professional Engineer may choose to use their actual hourly rates.

These rates, including overhead expenses, can also be used for local agency personnel (e.g., NRCS, CCE) as well as private sector consultants. These individuals will also have the option to use and fully justify their own actual rates. Overhead expenses cannot be used for actual rates.

