

## Tennessee Department of Agriculture--Water Resources Program

I. **Introduction:** The Tennessee Department of Agriculture (TDA) is authorized by T.C.A. §67-4-409(I) to administer the Agricultural Resources Conservation Fund (ARCF). This statute states that the intent of the General Assembly is for **the highest priority of the ARCF to be the abatement and prevention of nonpoint source water pollution that may be associated with agricultural production**. Historically, funding has been provided to landowners through contracts with the Soil Conservation Districts (SCDs) for the installation of Best Management Practices (BMPs), grants for specialized equipment, and targeted educational events. It is essential that the benchmark of program effectiveness be in terms of **measurable water quality improvements**. To this end, we strongly recommend the adoption of the following procedures by ARCF recipients.

II. **Watershed Evaluations:** All SCDs should evaluate the streams in their District (county), and should certainly be aware of those waters that are listed as impaired for agriculture on:

TDEC's Online Water Quality Assessment Tool:

<http://tnmap.tn.gov/wpc/> ,

and/or TDEC's Proposed 2014 303(d) List,:

<http://tn.gov/environment/water/docs/wpc/2014-proposed-final-303d-list.pdf>

Agricultural lands having an obvious negative impact on water quality should be identified by the SCD. The landowners in these identified areas should be contacted directly by the District, and should be encouraged to apply for cost share funding for the needed BMPs. Each SCD should consult with the appropriate TDA Watershed Coordinator prior to application submittal.

**APPLICATION DEADLINE: May 29, 2015**

III. **Watershed Prioritization:** Following the development of information regarding the streams in the District (county), the SCD Board, the District Conservationist, the TDA Watershed Coordinator, and any other persons involved locally should collaborate to rank the applications submitted by landowners for BMP cost share. **The criteria for ranking needed BMPs should focus on the likelihood of obtaining measurable water quality improvements from the BMP installation.** TDA recommends that SCDs develop a plan to address all watersheds in their Districts, and set the goal of removing streams or segments of streams from the 303(d) List, and also to remove sources of impairment from streams not currently listed, so as to prevent them from being listed as impaired. This can be accomplished by focusing on one small watershed at a time, installing all needed BMPs within that small watershed and moving on to the next small watershed, utilizing a "worst watershed first"

approach. The intent of this effort should be to remove or reduce nonpoint pollution sources from all waters in each District.

In order to achieve the objectives mandated by the General Assembly, TDA is requiring all BMP implementation programs to have a watershed focus. The process is outlined as follows:

1. Select a watershed, no larger than a twelve-digit Hydrologic Unit area.
2. Evaluate the watershed, identifying all BMPs that are needed to stop active erosion or the direct transport of pollutants to the state's waters,
3. Attempt to obtain 100% landowner participation in the watershed, through one-on-one meetings, phone calls, site visits, or educational forums, etc.,
4. Apply for funding from TDA. List the watersheds in order of priority.
5. Install funded BMPs, and
6. Coordinate with TDA for watershed monitoring after the BMP installations are complete.

It is imperative that the funds used through this program demonstrate that voluntary, non-regulatory cost share programs can measurably improve Tennessee's waters.

**IV. Additional Funding:** If at any time during the watershed evaluation the SCD becomes aware of water quality problems in their county that are not related to agricultural practices, and there is local interest in solving these problems, the SCD is encouraged to contact TDA Water Resources and make an application for funding through the 319 Nonpoint Source Grant Program.

**V. Guidance for BMP Implementation:** Certain BMPs will be eligible to receive cost share funds through TDA's ARCF in Fiscal Year 2016. The funds will be administered locally through the Soil Conservation District Board of Supervisors in each county and with other partners, with the concurrence of TDA's Watershed Coordinators. Technical assistance will be provided by either the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) or District technicians. Specifications for all BMPs will be in accordance with the NRCS Field Office Technical Guide. Conservation Plans will be developed by the NRCS District Conservationists or the District Technicians and will be strictly adhered to for the purpose of establishing eligibility for cost share payment. Variances from NRCS plans and specifications will be considered on a case-by-case basis. A written request to TDA shall be required for all variance requests. A determination will be made in writing after consultation with TDA staff and qualified county technicians. Each cooperator is required to sign the Application and Agreement for Cost Share Assistance Form, with the "Project Estimate" and the "Maximum Cost Share Amount" filled in. TDA will not reimburse any project that does not have this completed prior to starting the project. Only the input rates specified in the Conservation Plan will be eligible to receive cost share funding.

Except as explicitly provided in this Guidance, equipment and labor costs supplied personally by the Cooperator/landowner (seedbed preparation, tractor usage, etc.) will not be eligible for cost share. Contracted labor is eligible for cost share and labor rates must be consistent with competitive local labor rates. Bills for labor will be evaluated by TDA Watershed Coordinators as to appropriate work performed and the reasonableness and practicality of time claimed for that work. TDA reserves the right to reduce any invoices for labor that exceed the local labor rates. Specialized equipment costs will be eligible for cost share, such as no-till drills, spriggers, bulldozers, backhoes, etc., and will be evaluated on a case-by-case basis.

The life span of all practices shall conform to NRCS guidelines, with the exception of the cropland conversion practice (512a). The cooperator shall reimburse the District on a pro-rata basis for the destruction of any cost-shared BMP before the end of the expected useful life of the BMP. In the case of a cooperator that applies for BMPs with a life expectancy of greater than one year on land he/she is renting, the landowner shall sign the application and agreement form along with the cooperator/renter. A cooperator who has power of attorney can sign for the landowner. A copy of the power of attorney will be attached to the application. If the landowner decides not to rent the land and/or sell it prior to the end of the useful life of the BMP(s), and the BMPs are removed, the District would be able to recover the pro-rata share of the BMP(s) from the landowner.

Agricultural BMPs installed in watersheds that are listed as impaired for agriculture on the 2014 Proposed Final 303(d) List or TDEC's Online Assessment Tool, (see links in Section II, page 1), are eligible for cost-share at an 85% rate, at the discretion of the SCD Board. The cost-share for BMPs in other watersheds remains at 75%. The SCD Board of Supervisors may elect to set a lesser percent for cost share or use another payment system such as a flat rate. For SCD Boards who choose to cost share on a flat rate, the reimbursement made to the cooperator should be 75% (85%) of the total project cost as applicable, or the established flat rate, whichever is less. Close attention should be given to the specific BMPs for which cost-share funding is requested. Districts that choose to cost-share on a flat rate should evaluate the established rate in light of increasing costs and technical assistance workload concerns. Planned conservation systems that will result in a high degree of water quality improvement should not be under-funded to the extent that they are not implemented.

Cost share funds from ARCF may be used in cooperation with other funding sources, if necessary. TDA Watershed Coordinators shall be consulted in these situations, prior to giving approval to the cooperator. **The total amount of all cost shares shall not exceed 90% of the total cost of establishing the BMP, as determined by actual receipts/invoices submitted by the cooperator.**

**VI. Invoices/ Receipts:** Cooperators must provide proper receipts and/or invoices for proper documentation to verify the actual costs of BMP installations. Copies of original receipts/invoices are acceptable, but must be legible. All Receipts/Invoices must include:

- Date of Purchase
- Name of Business/Contractor, with address and phone number
- Itemized description of the amounts for materials and labor
- Amount of purchase or invoice
- Form of payment (check, credit card, charged to account)

Invoices from contractors for BMP installations shall be paid by check, cashier's check or credit card. Cash payments shall be verified by signature of contractor. The cooperator may give the SCD the authority to assign payment directly to the contractor.

**VII. BMP Specifics.** Consistent with the TDA policy that was implemented in FY 2000, certain BMPs will be eligible for cost share without the need for a preliminary site visit from the Watershed Coordinator to determine eligibility. The following is a list of these----

**“No Site Visit Required” BMPs:**

- **Buffer/Filter Strips**
- **Cropland Conversion:** Seeding will be funded for the establishment of a permanent vegetative cover to be used for pasture or hay land. **SOIL TESTING IS REQUIRED. SOIL TEST RESULTS MUST BE OBTAINED SOLELY FROM THE UNIVERSITY OF TENNESSEE SOIL TESTING LAB AND THOSE RESULTING RECOMMENDATIONS MUST BE FOLLOWED FOR LIME AND FERTILIZER APPLICATION.** Eligible seeding rates and dates are those specified on the NRCS Conservation Plan or in accordance with the University of Tennessee Publication PB 378. Local SCD Boards, with the concurrence of the TDA Watershed Coordinator and the NRCS District Conservationist, have the option to extend seeding dates in the event that weather conditions prevent adherence to specified dates. Companion crop seeds (e.g. wheat) will not be eligible for cost share. Maintenance for a minimum of five years will be required on all permanent vegetative covers.
- **Diversions**
- **Grade Stabilization Structures**
- **Grassed Waterways**
- **Sediment Control Basins:** Emphasis should be placed on this practice as a component of a larger field system for erosion control.
- **Terraces**

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Certain BMPs will be eligible for cost share only after a site visit has been made by the TDA Watershed Coordinator to determine eligibility. The following is a list of these ----

**“Site Visit Required” BMPs:**

- **Animal Waste Systems, Including Poultry Litter Storage Buildings, Composters and Incinerators:** The cost share for these projects shall not exceed 75% of actual costs, with the maximum payment to be determined by fund availability. TDA Watershed Coordinators will evaluate requests for components of animal waste systems on small farms on a case by case basis. Eligible poultry producers are those that were in operation prior to May 1, 1999.
- **Cover Crops:** Cover crops shall be aerially seeded or drilled into existing residue. Cost share for cover crops shall not exceed 75% of the seed cost, or \$15 per acre for planting a single species/ \$25 per acre for planting multiple species, whichever is less. Harvesting, haying or grazing will be allowed on winter cover practices, after the 1<sup>st</sup> of

April. Seeding rates and dates will be either specified in the NRCS Conservation Plan or in accordance with the University of Tennessee Publication PB 378.

- **Critical Area Treatment**
- **Heavy Use Areas**
- **Livestock Exclusion Systems:** The purpose of this practice is to control access of livestock to waters of the state. Components may include alternative watering sources, stream crossings, limited stream or pond access, streambank stabilization and/or restoration, and fencing. Livestock must be present on the farm prior to installation of these practices, or to qualify for rotational grazing cost-share (see Rotational Grazing System below for specifics and for fencing cost share rates).
- **Ponds, Wells, and Spring Developments:** Ponds, wells, or spring developments deemed eligible for funding must be a component of a livestock exclusion system or a rotational grazing system, consistent with the Conservation Plan. Cost share for ponds, wells, utility taps, or spring developments shall not exceed 75% of the establishment cost, or \$2,500, whichever is less. Well pumps will be cost shared separately, with a payment limitation of 75% of the pump cost or \$2,000, whichever is less. Providing power to the well is ineligible for cost share reimbursement.
- **Rotational Grazing Systems:** Cost share for fencing for rotational grazing will be limited to cross-fencing of existing fields. Property boundary fencing is not eligible for cost share. The number of paddocks and watering facilities will be determined by the TDA Watershed Coordinator on a case-by-case basis. The cost share rate for all fencing practices will be 75% of material and labor costs, with a cap on the labor reimbursement of \$0.20 per strand-foot. The Cooperator will be reimbursed either the amount based on the above limits, or the calculated estimate in the Agreement, whichever is less. The cooperator's labor is eligible for reimbursement. Itemized receipts are required to receive reimbursement for all incurred costs (see Section VI above).
- **Streambank Stabilization and/or Restoration** (other than Livestock Exclusion)
- **Watering Tanks:** All watering tanks must be installed on a heavy use area in order to be approved for cost share.

If a BMP is not listed on either of the above lists, then it would be in the “**Site Visit Required**” Category. The need for the practice must be determined by the TDA Watershed Coordinator in consultation with the NRCS District Conservationist and approved by the SCD Board.

**VIII. Information and Education (I&E) Projects:** Agricultural projects that are directed toward landowners, producers and managers, such as field days, BMP demonstrations, seminars, informational material, and training/workshop events will be eligible, pending approval and funding availability. Each funded project shall include a means of testing the success of the educational activity, such as an evaluation form, survey, etc. The survey results shall be submitted with the reimbursement request. Justification must be made for events with cost requests exceeding \$1,000.

**IX. Equipment:** Grants for specialized equipment will be available to Soil Conservation Districts and Animal waste associations this fiscal year, pending approval and funding availability. Eligible equipment will include no-till drills, manure handling equipment, lime spreaders, and crimpers to assist in the promotion of soil conservation and soil health, and the adoption of alternative best practices that reduce the risk of pollution of Tennessee waters from agricultural operations. Funding for equipment should not be requested if the equipment is already available locally through the private sector. Applicants should clearly indicate on the application the estimated cost of the requested equipment and the amount of matching funds the applicant plans to provide. The amount of matching funds provided will be one factor in allocating the funds for equipment. The applicant should provide a copy of their equipment rental agreement to TDA with the funding request. All applicants shall follow established procurement procedures to ensure the purchase is made in a competitive and open manner, consistent with state law and policies.

**X. Requirements for “Contribution Agreement” Technicians:** TDA shall be furnished a copy of the signed agreement between NRCS and the SCD prior to the approval of state support for the technical assistance position. The SCD will report to TDA the name and contact information for the employee and the status of conservation planning and/or engineering job approval authority certifications earned. Should the employee vacate the position for any reason, the SCD will promptly notify TDA. TDA personnel will be given the opportunity to review the qualifications of applicants and give appropriate feedback prior to selection by the Board. TDA will also be notified of the start date of all new technicians.

The contribution agreement technician should be provided a job plan, outlining in writing their duties and responsibilities, and should receive an annual review wherein their work performance is evaluated. TDA shall be sent a copy of the job plan and the employee’s annual performance evaluation.

The TDA portion of the contribution agreement employee’s salary will be capped at \$9,000 per year, with a limit of one position per county. These positions will also have a capped hourly rate of \$20 per hour.

**XI. Requirements for Technicians Funded with a Ten Percent Set-Aside:** TDA will be furnished the name and the qualifications of the technician proposed to be retained by the SCD to perform technical assistance work, including documentation of conservation planning and/or engineering job approval authority certifications held or that are planned to be obtained. The TDA requirements are for all state-funded technicians to hold or be working toward, at a minimum, NRCS conservation planning certification. Obtaining engineering job approval authority would be highly desirable.

The 10% technician should be provided a job plan, outlining in writing their duties and responsibilities, and should receive an annual review wherein their work performance is evaluated. TDA shall be sent a copy of the job plan and the employee’s annual performance evaluation.

For technical assistance by an employee with NRCS Engineering Job Approval Authority, or who possesses commensurate training and experience to perform the field work necessary for the design and layout of conservation practices, the hourly rate will be capped at \$25 per hour.

For technical assistance by an employee that has or is working to obtain Conservation Planning Certification or that performs tasks that are more administrative in nature, the hourly rate will be capped at \$15 per hour. In both cases, as with the contribution agreement employees, the reimbursement procedures currently in place will remain unchanged.

These caps do not in any way limit the Soil Conservation District from providing additional compensation from other sources if they see fit. These caps are set to provide a uniform state-wide level of support from TDA for additional conservation technical assistance.

**XII. Conflict of Interest:** It is the policy of TDA to require full disclosure of situations that could result in a conflict of interest. For any employee that receives compensation from the county government or the Soil Conservation District, and also receives compensation through the contribution agreement process or the 10% technical assistance support grant, written documentation from the primary employer stating the employer's knowledge and approval of the employment situation and declaring no conflict of interest or "double dipping" exists shall be provided to TDA with the funding application.