

**NEW YORK STATE
DEPARTMENT OF AGRICULTURE AND MARKETS
RFP0179 - REQUEST FOR PROPOSALS**

for State Assistance Payments for

**ROUND 16
FARMLAND PROTECTION IMPLEMENTATION GRANTS PROGRAM**

2018

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TIMELINE

Release Request For Proposals (RFP)	late May 2018
Deadline for Questions	late June 2018
Final Questions and Answers Posted	late June 2018
Deadline for Proposals	late August 2018
Announce and Award Grants	early December 2018

I. PROPOSAL SUBMISSION REQUIREMENTS

Proposals for funding under the Round 16 Farmland Protection Implementation Grants (FPIG) Program must conform to the format provided in the Grants Gateway. **PROPOSALS MUST BE SUBMITTED via the Grants Gateway by 4:30 p.m. local time on August 31, 2018** to be considered for funding. Applicants, and not computers or servers, are responsible for the timely submission of proposals. *Proposals received after the scheduled date and time will not be accepted.* Faxed, mailed or e-mailed proposals will not be accepted.

II. QUESTIONS AND ANSWERS

All questions about requirements contained in this RFP **must be submitted in writing (via mail or delivery service or by facsimile or e-mail) and must be received at the Department by noon local time, June 22, 2018.** Please submit all written questions to:

David Behm
NYS Dept. of Agriculture and Markets
10B Airline Drive
Albany, New York 12235
Fax: (518) 457-3412
E-mail: david.behm@agriculture.ny.gov

To the degree possible, each inquiry should cite the RFP title, section and paragraph to which it refers. Applicants should note that all clarifications are to be resolved prior to the submission of a proposal. **A list of questions** about the program which are received from potential applicants, **and answers to those questions**, as well as any changes, additions, or deletions to the RFP, **will be posted by June 29, 2018**, in the “Funding Opportunities” section of the **Department's** web site, www.agriculture.ny.gov under the heading “Frequently Asked Questions,” along with the electronic version of this RFP. **Applicants are urged to check the Department's web site frequently for notices of any changes, additions or deletions to the RFP.** If you are unable to access the web site, please contact David Behm to arrange for alternate delivery. All questions and answers shall become a formal addendum to the RFP.

III. GENERAL PROGRAM INFORMATION

A. Intent of Request for Proposals (RFP)

The New York State Department of Agriculture and Markets (the “**Department**”) invites proposals for financial assistance to implement certain farmland protection implementation activities described in or otherwise consistent with agricultural and farmland protection plans that have been adopted by counties or municipalities.

This grant opportunity is being offered to enable eligible applicants to specifically implement **Conservation Easement Projects** with owners of viable agricultural lands that are at risk of conversion to non-farm uses. Therefore, the following activities would be possible under this RFP subject to the stipulations described elsewhere in this RFP (and summarized in “Match Contribution Requirements and Associated Stipulations” table in Section V D.):

- Perpetual conservation easement resulting from the sale of development rights associated with a Purchase of Development Rights (PDR) transaction; **or**
- Perpetual conservation easement resulting from the sale of development rights associated with a Transfer of Development Rights (TDR) transaction; **or**
- Perpetual conservation easement resulting from the donation of the full value of development rights.

B. Background

Article 25-AAA of the Agriculture and Markets Law authorizes the Commissioner to maintain a State agricultural and farmland protection program to provide financial and technical assistance, within funds available, to assist locally-led efforts in developing agricultural and farmland protection plans and in the implementation of such plans.

C. Purpose

The purpose of this funding opportunity is to provide State financial assistance to enable local initiatives that are intended to maintain the economic viability of the State's agricultural industry and its supporting land base and to protect the environmental and landscape preservation values associated with agriculture.

Specifically, this grant opportunity is being offered to enable eligible applicants to cover a portion of total eligible project costs for Conservation Easement Projects with owners of viable agricultural lands that are at risk of conversion to non-farm uses. Each Conservation Easement Project must result in a perpetual agricultural conservation easement.

IV. ELIGIBILITY

A. Applicant Eligibility

New York State vendors must register in the Grants Gateway to become established users in the system. Therefore, **each entity that intends to submit a proposal in response to this RFP must be registered.** If your entity has not registered prior to the submission of your proposal(s), each proposal you submit will be rejected and not considered for funding under this RFP. Furthermore, **all not-for-profit conservation organizations that intend to submit a proposal must also be pre-qualified prior to the submission of your proposal(s).** If your not-for-profit conservation organization has not pre-qualified with the Division of Budget by the time you submit your proposal(s), each proposal you submit will be rejected and not considered for funding under this RFP.

Proposals for funding will only be accepted from:

- (1) any county agricultural and farmland protection board in a county with an approved county plan developed pursuant to Section 324 of Article 25-AAA of the Agriculture and Markets Law; **OR**
- (2) any municipality which has in place a local farmland protection plan, provided the proposed project is endorsed for funding in a letter provided by the agricultural and farmland protection board for the county in which the municipality is located; **OR**

- (3) any not-for-profit conservation organization that will assist a county or municipality to implement a county or municipal agricultural and farmland protection plan approved by the commissioner, provided the proposed project is endorsed for funding in a letter provided by the county agricultural and farmland protection board for the county in which the proposed project is located and the proposed project must also be endorsed for funding in a letter provided by the municipality in which the proposed project is located;

OR

- (4) any soil and water conservation district that will assist a county or municipality to implement a county or municipal agricultural and farmland protection plan approved by the commissioner, provided the proposed project is endorsed for funding in a letter provided by the county agricultural and farmland protection board for the county in which the proposed project is located and the proposed project must also be endorsed for funding in a letter provided by the municipality in which the proposed project is located.

For purposes of this section, a “local farmland protection plan” may include a town, village or city comprehensive plan as defined in the Town Law, the Village Law, or General City Law, if such plan includes an element which considers agricultural uses and needs; an open space plan adopted by the municipality which presents strategies for the preservation of viable agricultural land; or any other formal agricultural and farmland protection planning document *provided that if* the plan was developed on or after January 1, 2006, it must comply with section 324-a of Article 25-AAA of the Agriculture and Markets Law. **Any applicant intending to submit a proposal for the first time for a proposed farmland protection implementation project is urged to contact the Department regarding the applicant’s eligibility prior to submitting its proposal. Any proposal submitted by an ineligible applicant shall not be considered for funding under this RFP.**

The applicant must be the entity that is the Grantee (or “holder”) of the perpetual agricultural conservation easement(s) associated with the proposed Conservation Easement Project. If there will be more than one Grantee, then each Grantee must be identified as a Joint Applicant on the proposal submitted in response to this RFP and only one of those Joint Applicants shall be identified in that proposal as the Lead Applicant. If awarded, the State will enter into a funding agreement with only the Lead Applicant.

B. Project Eligibility

Eligible projects are limited only to those associated with viable agricultural land that will result in perpetual agricultural conservation easement(s). However, none of the following lands are eligible under this RFP:

- Lands under public ownership, or
- Lands subject to an existing conservation easement (regardless of its duration).

To be eligible for funding under this RFP, the location of each proposed project must, at a minimum, be consistent with the location of any land or areas proposed to be protected in a county’s or a municipality’s agricultural and farmland protection plan (i.e., pursuant to Section 324 or Section 324-a, as applicable, of Article 25-AAA of the Agriculture and Markets Law). Furthermore, each proposed project must be endorsed for funding in a letter provided by the agricultural and farmland protection board for the county in which the proposed project is located.

Each proposed project must be associated with *at least one* (1) Farm Operation (as that term is defined in Section 301 of Article 25-AA of the Agriculture and Markets Law). However, any given Farm Operation may be the subject of more than one proposal provided that requested

funding does not overlap the same land. In other words, it is acceptable to segment the lands comprising a single Farm Operation into two or more distinct proposals.

Any proposal that does not involve *at least one (1)* Farm Operation shall not be considered for funding under this RFP.

V. DETAILED SPECIFICATIONS AND DELIVERABLES OF THE FUNDING AGREEMENT

A. Anticipated Time Frames

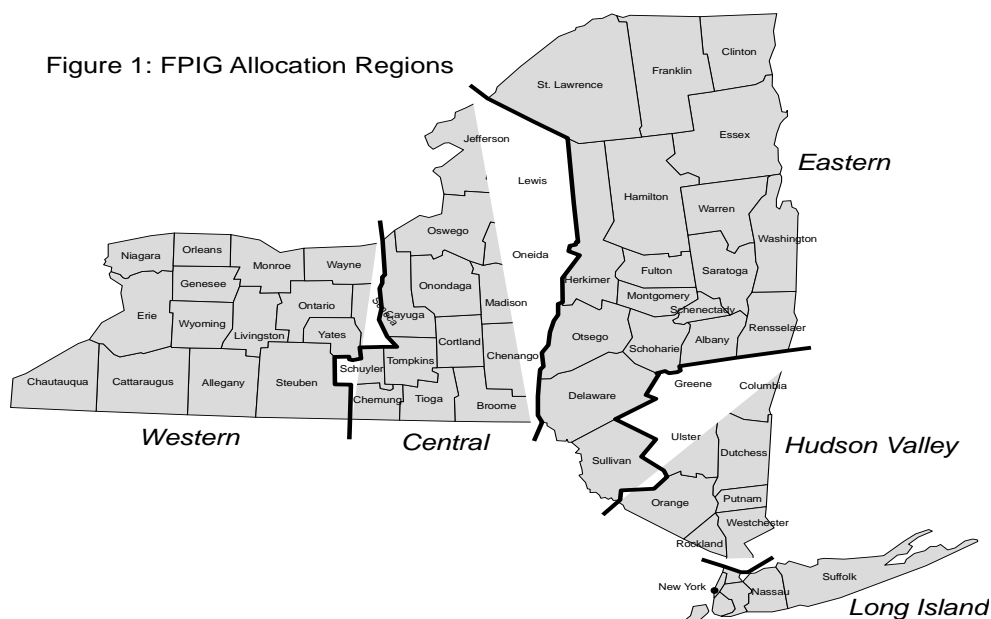
The start date for funding agreements (i.e., those FPIG contracts between the State and the awarded applicant entity) awarded through this RFP is anticipated to be on or before December 3, 2018, and awarded projects are expected to be completed within four (4) years, subject to the milestones/deliverables stipulated therein. Therefore, and as an example, if your project is awarded, the resulting funding agreement would have a contract period of approximately December 3, 2018 – December 2, 2022.

B. Available Funds

The Department has made available \$37.8 million for awards under this RFP as follows:

- Up to \$35.91 million for **Conservation Easement Projects** shall be allocated equally for each of five (5) regions across the state (see Figure 1 below); and
- Up to \$1.89 million for **Conservation Easement Projects** as potential contingency awards as authorized (see “Contingency Awards” of Section VIII, “Proposal Review and Awarding of Successful Proposals”).

Figure 1: FPIG Allocation Regions



The following general limitations apply to all proposals:

- No award shall exceed \$2.0 million, but any project seeking Federal farmland protection funding shall not be awarded more than \$500,000 of State financial assistance.
- State contribution toward a Preemptive Purchase Right shall be no more than forty percent (40%) of the appraised value of development rights, or \$250,000, whichever is less.
- State contribution toward easement stewardship shall be \$10,000 per easement, subject to the maximum award amounts noted immediately above.

C. Project Costs

(1) Eligible Project Costs

Eligible project costs associated with **Conservation Easement Projects** are:

- (1) value of the development rights being acquired, provided such value associated with any perpetual conservation easement is from an appraisal deemed acceptable to the Department; and
- (2) value of a Preemptive Purchase Right (if applicable), provided:
 - a. at least twenty-five percent (25%) of each conservation easement area is comprised of Prime Soils (not “Prime, if drained,” or “Soils of Statewide Importance,” or “Unique Soils”), and
 - b. such value associated with any perpetual conservation easement is from an appraisal deemed acceptable to the Department; and
- (3) transaction costs acceptable to the Department, provided those are limited to:
 - title reports (including associated continuation fees until such time that title insurance is purchased);
 - title insurance;
 - property survey(s);
 - appraisal(s);
 - applicant’s and other project partners’ legal fees to negotiate/close the conservation easement transaction and to review title reports and, as necessary, prepare title curatives;
 - applicant’s and other project partners’ staff time to negotiate/close the conservation easement transaction, manage the preparation/compilation of required deliverables, and locally administer the awarded funding agreement;
 - preparation of a baseline documentation report regarding the proposed Conservation Easement Project;
 - environmental site assessment (if deemed necessary);
 - recording fees;

- easement stewardship fee; and
- conservation easement defense liability insurance (if applicable).

(2) Ineligible Project Costs

Any costs incurred prior to the start date of a funding agreement shall not be deemed eligible costs under this RFP. Furthermore, the following are ineligible project costs:

- landowner's cost for legal or financial advisors;
- state or local real estate transfer taxes;
- any fee or other contribution deposited to a legal defense fund other than a conservation easement defense liability insurance policy; and
- applicant's or project partners' indirect or overhead costs (i.e., office rent, office utilities, and any other cost that is indirectly incurred by the applicant or a project partner through employment of its respective staff or that is indirectly incurred by the applicant or a project partner due to consultant(s) or other contracted help that will be involved with the proposed project).

D. Match Requirements

The following general requirements apply to **all** proposals:

- Any governmental entity providing a cash contribution must provide a letter from an authorized representative formally acknowledging its proposed contribution¹.
- As applicable, any other entity (including participating landowners) providing a local cash match must provide a letter from an authorized representative formally acknowledging the amount of its contribution.
- None of the local cash contribution(s) shall be from a State source of financial assistance.
- Cash and in-kind match must be for items that are eligible costs and may be provided by the applicant or other supporters of the project.
- Local match may include in-kind contributions, but the amount of in-kind contributions shall be limited to no more than 80% of total administrative costs of the proposed project, or \$25,000, whichever is less.

¹ If the applicant is a governmental entity and its proposal receives an award through this RFP, that governmental entity must submit a copy of a resolution from its governing body formally obligating its cash match before the State will approve a funding agreement with that successful applicant.

Furthermore, there are particular match stipulations for each of the differing levels of State contribution awarded as noted below and in the table on the next page.

(1) Proposals seeking a State contribution of 87.5% of total eligible project costs:

- Landowner must **exclusively** provide the local match contribution of 12.5% of total eligible project costs. No other source shall provide any cash or an in-kind contribution of any amount toward the proposed project.

(2) Proposals seeking a State contribution of **up to 75%** of total eligible project costs:

- Local match contribution must be at least 25% of total eligible project costs, which must include a cash match of 5% of total project costs or \$5,000, whichever amount is less. However –
 - if a Preemptive Purchase Right is associated with the proposed Conservation Easement Project, then the local cash match contribution shall increase to also fully cover the balance of the total appraised value of that reserved right with no portion of that specific cost to be borne by any contribution from the participating landowner(s).
 - the local cash match requirement to cover the cost of the value of development rights is waived whenever a participating landowner donates the *full value* of development rights for the conservation easement(s) comprising the entire proposed project, provided that the value of any Preemptive Purchase Right associated with the proposed Conservation Easement Project is fully paid for from proceeds received from the State contribution and local cash match (none of which shall be derived from the participating landowner(s)).
- None of the local cash contribution(s) shall be from any Federal source of financial assistance.
- Local cash contribution may be provided, but only in part, by the participating landowner(s).

(3) Proposals seeking a State contribution of 25% of easement purchase price plus eligible transaction costs:

- Local match contribution must cover **all** of the remaining eligible total project costs and may be provided, but only in part, by the participating landowner(s).
- Applicant must obtain Federal farmland protection funding (e.g., Agricultural Conservation Easement Program administered by U.S. Department of Agriculture-Natural Resources Conservation Service; Readiness and Environmental Protection Integration Program administered by U.S. Department of Defense; or any other Federal source of funding that may be used on farmland protection implementation activities) within the funding agreement term or prior to notification of a State award associated with this RFP. Such Federal farmland protection funding awarded to the applicant (or to any Joint Applicant, if applicable) shall be deemed part of the required local match contribution.

Match Contribution Requirements and Associated Stipulations for Conservation Easement Projects					
Maximum State Award	Maximum State Contribution	Other "Caps" on State Contribution	Minimum Local Match		Other State Requirements
			%	Cash	
\$2,000,000	87.5% of total project costs	(a) 40% of value of development rights, or \$250,000, whichever is less, toward Preemptive Purchase Right, AND (b) \$10,000 per easement toward easement stewardship	12.5% of total project costs <i>(solely from landowner)</i>	None specified	Use of Department conservation easement ²
\$2,000,000	Up to 75.0% of total project costs	(a) 40% of value of development rights, or \$250,000, whichever is less, toward Preemptive Purchase Right, AND (b) \$10,000 per easement toward easement stewardship	25.0% of total project costs	5.0% of total project costs or \$5,000, whichever is less, and entire amount shall not be provided by landowner <i>(waived if development rights value fully donated)</i> EXCEPT IF Preemptive Purchase Right (PPR), then local cash match must increase to fully cover the balance of the cost of the PPR (none of which shall be borne by the landowner(s))	Use of Department-required conservation easement provisions provided remainder of conservation easement ² – (a) “shall not unreasonably restrict or regulate Farm Operations in contravention of the purposes of Article 25-AA of the AML,” AND (b) contains no reference to §247 of New York State General Municipal Law, AND (c) must be consistent with the “Purpose” and “Implementation” provisions as required by the Department
\$500,000	25.0% of purchase price plus all transaction costs	(a) 40% of value of development rights, or \$250,000, whichever is less, toward Preemptive Purchase Right, AND (b) \$10,000 per easement toward easement stewardship	remainder of all project costs	Federal farmland protection grant award	Purpose of conservation easement ² will (minimally) ensure that the land remains available for agricultural use

² **If the conservation easement includes a Preemptive Purchase Right**, these additional stipulations must be met:

(a) 25% of the land subject to that conservation easement must be comprised of Prime Soils (NOT “Prime, if drained” or “Soils of Statewide Importance” or “Unique Soils”), and (b) use of Department-required definition of “Qualified Farmer.”

E. Policy Guidance

The **Department** is providing the following guidance documents to assist in the compilation of a grant proposal and all required project deliverables:

- [“Farmland Protection and Agricultural Districts \(GD#1\)”](#);
- [“Developing a Land Plan for an Agricultural Conservation Easement \(GD#3\)”](#);
- [“Conservation Easements – Title Curative Letter”](#);
- [“2016 Model Agricultural Conservation Easement”](#) (only for easement projects awarded a State contribution of 87.5% of eligible total project costs);
- [“Farmland Protection Implementation Grants \(FPIG\) Program Required Easement Provisions \(2016 version\)”](#) (only for easement projects awarded a State contribution of up to 75% of eligible total project costs, EXCEPT those awarded 25% of easement purchase price plus all transaction costs);
- [“Appraisals for Conservation Easements \(GD#6\)”](#); **AND**
- [“Definition of ‘Qualified Farmer’ for a Preemptive Purchase Right.”](#)

All applicants are urged to submit applications and subsequent project deliverables that embody the following expectations.

Pursuant to GD#1 (page 2):

The critical right to farm protections of the Agricultural Districts Law (Article 25-AA including Sections 303, 305 and 308) guide NYSDAM in its administration of the farmland protection program and in its review of various aspects of farmland protection projects including land use planning and conservation easement drafting.

Consequently, NYSDAM will review proposed easement language to determine that proposed projects are not *unreasonably restrictive of farm operations*.

Pursuant to GD#3 (page 1):

The land plan and conservation easement should:

- Provide opportunities for active, economically viable Farm Operations on protected farmland now and in the future.
- Establish adequate flexibility for farmers operating on protected farms to grow, adapt and change to new market conditions.
- Create opportunities for farmers to own protected farms with the ability to develop housing for farm families and farm labor, agricultural buildings and structures that support rural businesses compatible with agriculture.
- Reduce the likelihood of conflicts between farmers operating on protected farms and their non-farm neighbors.
- Facilitate the protection of natural resources in a manner compatible with commercial Farm Operations, consistent

with the provisions of the Agricultural Districts Law and reasonably within the stewardship capacity of the conservation easement holder.

Ultimately, the right to farm protections of Article 25-AA of the Agricultural Districts Law (including Sections 303, 305 and 308) will guide NYSDAM in its review of various aspects of farmland protection projects including land planning and conservation easement drafting (See Guidance Document #1, “Farmland Protection and Agricultural Districts”).

F. Project Deliverables

Preliminary Review

All Conservation Easement Projects must receive the Department’s preliminary approval before proceeding to compile a complete project file. The project deliverables required for a preliminary review are described as follows:

- (1) **Title report *plus* title curatives letter** from Grantee attorney explaining how clear title will be ensured for the proposed conservation easement transaction;
- (2) **Draft conservation easement(s)** associated with the proposed project, *provided*:
 - For **Conservation Easement Projects** receiving an award of 87.5% of total project costs, the red-lined³ draft document submitted shall use the Department’s 2016 version as its template.
 - For **Conservation Easement Projects** receiving an award of 25% of easement purchase price *plus* transaction costs, the draft document submitted will be the version to be submitted for funding disbursement approval from the Federal agency administering the Federal farmland protection grant.
 - For all other awarded **Conservation Easement Projects**, the red-lined⁴ draft document submitted shall be the Grantee’s proposed easement into which the Department’s required provisions (2016 version) have been incorporated without modifications thereto. Further, all other provisions of the Grantee’s proposed easement must be consistent with the “Purpose” and “Implementation” provisions as required by the Department.
- (3) **Site plan** (*only if* it has been modified from that represented in applicant’s grant proposal) for each draft conservation easement that has been signed by all owners of the land associated with each draft conservation easement and that has also been signed by a representative of the Grantee.

³ A “red-lined” version of the Department’s conservation easement is merely a digital file (Word document format) which had “track changes” feature turned on ***before any modification*** was made to the original digital file of the Department’s 2016 version. Thus, the resulting “red-lined” version ***shall reveal all modifications*** made to it.

⁴ A “red-lined” version of the applicant’s conservation easement is merely a digital file (Word document format) which had “track changes” feature turned on ***before any of the Department-required provisions (2016 version) were incorporated into it***. Thus, the resulting “red-lined” version ***shall reveal all of the required insertions***.

These project deliverables must be submitted within six (6) months of state approval of the funding agreement.

Preliminary review of the proposed project may include the Department's Farmland Protection Program Manager conducting a site visit with the Grantee and participating landowner(s), **but only if** the site plan has been modified from that represented in the applicant's grant proposal. If the site visit reveals information or landscape conditions that are either inconsistent with the Department's guidance documents or deemed otherwise unacceptable to the Department **and** any such matters cannot be resolved to the satisfaction of the Department, the Department may terminate the funding agreement and withdraw the State award.

Project File

After the Department has given its preliminary approval of the proposed **Conservation Easement Project**, the local project manager shall compile and must submit (within eighteen (18) months of state approval of the funding agreement) these required project deliverables (referred to as a project file):

- (1) **Landowner Letter of Intent to Convey Conservation Easement(s) on Viable Agricultural Land** that has been signed by each owner of the land to be subject to each conservation easement comprising the proposed project;
- (2) **Financial Worksheet**;
- (3) **Appraisal report** (submitted as one (1) digital file (PDF) plus two (2) paper copies of each appraisal report);
- (4) **Final draft conservation easement(s)** associated with the proposed project, *provided* each such final draft is an updated red-lined version of the document that received the Department's preliminary approval as noted above;
- (5) **Certification of Title Curatives** from Grantee attorney **plus**
 - (a) copies of any attachments referenced in the certification,
 - (b) copies of all proposed title curatives,
 - (c) a copy of the cover sheet of commitment for title insurance indicating the amount of proposed coverage, and
 - (d) (only if any new title issues have been discovered during the preparation of the commitment for title insurance that must now also be addressed) a boundary survey of the proposed easement area; and
- (6) **Waiver⁵ (of preliminary/final notice of intent)** that is fully executed by all signatory parties.

⁵ This document is **not required IF** the Grantee is a not-for-profit conservation organization **AND** no other public funds are associated with the project (i.e., no funds contributed from a Federal agency, or a county, or a municipality).

Final Report

After the Department approves the project file, a complete final report must be submitted by the local project manager must submit to the Department within one hundred twenty (120) calendar days of receipt of interim payment #2. The compilation of required project deliverables (referred to as a final report) are as follows:

- (1) **Conservation Easement Closing Certification** that has been signed by the local project manager and the Grantee's attorney;
- (2) **Title insurance policy**;
- (3) **conservation easement defense liability insurance policy** (if applicable);
- (4) **Conservation easement(s)** as recorded in the county(ies) in which the subject lands are located; and
- (5) **FPIG Project Closing Statement** (spreadsheet) **plus** supporting documentation as noted thereon.

VI. ADMINISTRATIVE REQUIREMENTS AND RELATED CONSIDERATIONS

A. Issuing Agency

This RFP is issued by the New York State Department of Agriculture and Markets. The **Department** is responsible for the requirements specified herein and for the evaluation of completeness of all proposals.

B. The Department's Reserved Rights

The **Department** reserves the right to:

1. Reject any or all proposals received in response to this RFP.
2. Withdraw the RFP at any time, at the **Department's** sole discretion.
3. Make an award under the RFP in whole or part.
4. Award more than one funding agreement to the same successful applicant resulting from this RFP.
5. Disqualify any applicant whose conduct and/or proposal fails to conform to the requirements of the RFP.
6. Seek clarifications and revisions of proposals.
7. Amend the RFP specifications to correct errors or oversights, or to supply additional information, as it becomes available and with appropriate written notice to all potential applicants by posting amendments on the **Department** web site (www.agriculture.ny.gov) and on the New York State Grants Gateway (https://grantsgateway.ny.gov/IntelliGrants_NYSGG/module/nysgg/goportal.aspx).
8. Direct applicants to submit proposal modifications addressing subsequent RFP amendments.
9. Change any of the scheduled dates.
10. Waive any requirements that are not material.
11. Waive or modify minor irregularities in proposals received after prior notification to the applicant.
12. Require clarification at any time during the grant process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete

understanding of an offerer's proposal and/or to determine an offerer's compliance with the requirements of the RFP.

13. Negotiate with successful applicants any matter within the scope of the RFP in the best interests of the State.
14. Eliminate any mandatory, non-material specifications with which all applicants cannot comply.
15. The value of in-kind services must be reasonable and documented to the satisfaction of the Department, and such value and documentation are subject to adjustment by the Department.
16. Make all final decisions with respect to the amount of State funding and the timing of payments to be provided to an applicant.

C. Term of Funding Agreement

Each funding agreement shall be for a four-year term. However, if each performance measure is achieved by the contract milestone described in Attachment D of the funding agreement, each proposed **Conservation Easement Project** should be completed within two (2) years from the date of State approval of the funding agreement.

Continued funding throughout this period is contingent upon satisfactory contractor performance and availability of funds. The **Department** also reserves the right to revise the funding amounts for awards as necessary due to changes in the availability of funds.

D. Payment & Reporting Requirements of Successful Applicants

Each funding agreement will contain a table of milestones, which shall include a schedule of payments authorized under that awarded funding agreement (refer to "Payment and Reporting Schedule" table, on next page).

Conservation Easement Projects - PAYMENT AND REPORTING SCHEDULE		
TIMING	MILESTONES / DELIVERABLES ⁶	SCHEDULED PAYMENT (State Contribution) ⁷
Contract Approval Date	Department notification to successful applicant of approval of funding agreement by New York State.	Advance Payment includes: <ul style="list-style-type: none"> • \$1,500 title report stipend • Project partners' staff time (1/2 state contribution) • Project partners' legal fees (1/2 state contribution)
Month 1 to 6 (After State approval of funding agreement)	Submission for Preliminary Review: <ul style="list-style-type: none"> • See page 12 of RFP for required project deliverables. 	
Month 7 to 8 (After State approval of funding agreement)	Department Preliminary Approval of project.	Interim Payment #1 includes: <ul style="list-style-type: none"> • State share of appraisal • State share of survey • State share of baseline documentation report • Project partners' staff time (1/2 state contribution) • Project partners' legal fees (1/2 state contribution)
Month 9 to 18 (After State approval of funding agreement)	Submission of Project File: <ul style="list-style-type: none"> • See page 13 of RFP for required project deliverables. 	
--	Department approval of Project File.	Interim Payment #2 includes: <ul style="list-style-type: none"> • Balance of contract award less final payment amount.
120 Calendar Days (After receipt of Interim Payment 2)	Submission of Final Report: <ul style="list-style-type: none"> • See page 14 of RFP for required project deliverables. 	
--	Department approval of Final Report.	Final Payment includes: <ul style="list-style-type: none"> • \$10,000 per conservation easement • Conservation easement defense liability insurance

⁶ Successful applicant must adhere to the anticipated dates for the specified milestones and project deliverables to ensure prompt completion of the projects associated with funding agreements awarded through this RFP; doing so will enable efficient and predictable State disbursements. Failure to achieve the noted milestone may result in termination of that funding agreement upon the **Department's** examination of the circumstances surrounding the delay.

⁷ All payments are disbursed on a first approved, first paid basis. All disbursements to successful applicants are as authorized by the NYS Division of the Budget and the NYS Office of State Comptroller.

E. Vendor Access to Grants Gateway

New York State vendors must register in the Gateway and establish users in the system. To start this process, from the Grant Opportunity Portal (https://grantsgateway.ny.gov/IntelliGrants_NYSGG/module/nysgg/goportal.aspx), under Registration, click "Request Access Now!" to view your options.

For existing NYS vendors, there is only one step. You must submit a Registration Form for Administrators identifying a Delegated Administrator responsible for managing your organization's profile and users.

To find out if your organization has already registered, enter its SFS Vendor ID number and search. If your organization is registered, the search result will include contact information for its delegated administrator, and you can contact this individual to request access to the system. If your organization is not registered, the search result will provide a link to the Request Form for Administrator, which you will need to complete and submit pursuant to the instructions provided.

If your organization is not currently doing business with NYS, you will need to submit a Substitute W-9 Form to obtain a NYS SFS Vendor ID, in addition to the Registration Form for Administrators, in order to register.

Therefore, each entity that intends to submit a proposal in response to this RFP must be registered. If your entity has not registered prior to the submission of your proposal(s), each proposal you submit will be rejected and not considered for funding under this RFP.

Furthermore, all not-for-profit conservation organizations that intend to submit a proposal in response to this RFP must also be pre-qualified prior to the submission of your proposal(s). If you have not pre-qualified with the Division of Budget by the time that you submit your proposal(s), each proposal you submit will be rejected and not considered for funding under this RFP. For more information regarding the pre-qualification process, please view [FAQs About Prequalification](#) as provided by the New York State Grants Reform Team.

Grants Gateway Help Desk:

Email: grantsgateway@its.ny.gov

Phone: 518-474-5595

Hours: Monday through Friday 8:00 am to 4:00 pm

(User Roles, Application Completion, Policy, Registration, and Prequalification questions)

Agate Technical Support Help Desk:

Phone: 1-800-820-1890

Hours: Monday through Friday 8:00 am to 8:00 pm

Email: helpdesk@agatesoftware.com

(User roles and system questions)

F. General Specifications

1. **Contractors** will possess, at no cost to the State, all qualifications, licenses and permits to engage in the required business as may be required within the jurisdiction where the work specified is to be performed. Workers to be employed in the performance of this funding agreement will possess the qualifications, training, licenses and permits as may be required within such jurisdiction.
2. Submission of a proposal indicates the applicant's acceptance of all conditions and terms contained in this RFP, including the terms and conditions of the funding agreement. Any exceptions allowed by the **Department** during the question and answer phase (Section II) must be clearly noted in a cover letter attached to the proposal.
3. Provisions Upon Default
 - a. In the event that the Applicant, through any cause, fails to perform any of the terms, covenants or promises of any funding agreement resulting from this RFP, the **Department** acting for and on behalf of the State, shall thereupon have the right to terminate the funding agreement by giving notice in writing of the fact and date of such termination to the Applicant.

G. Miscellaneous Considerations

1. New York State Environmental Quality Review Act Requirements (SEQRA). Some projects may be subject to review under SEQRA. Municipalities should go to the New York State Department of Environmental Conservation web site (www.dec.ny.gov) for further information regarding applicability.
2. Freedom Of Information Law (FOIL). All proposals submitted and all related funding agreements and reports may be subject to disclosure under the Freedom of Information Law.
3. Liability. The **Department** shall not be held liable for any costs incurred by any party for work performed in the preparation of and production of a proposal or for any work performed prior to the formal execution of a funding agreement.

VII. COMPLETING THE PROPOSAL

A. Proposal Format

Proposals must be submitted through the New York State Grants Gateway. All Program Specific Questions of the online application available through the New York State Grants Gateway must be completed in order for you to be enabled to submit your digital proposal.

Please be advised that there are space limits for each section of the proposal. Proposal evaluators are obligated to review and consider only the information contained in section(s) of the proposal that address each criterion, as specified by and within the limitations described in this RFP and in the Proposal Rating Sheet (please refer to Appendix C of this RFP). Material that is not required or otherwise specifically requested to be included in the proposal should not be submitted.

For information regarding how to navigate the online application, please refer to the “Grants Gateway Application Submission Instructions” document available on Grants Gateway associated with this grant opportunity or as posted on the **Department’s** web site ([“Funding Opportunities”](#) web page).

B. Proposal Content

Applicants must respond to each Program Specific Question as provided on Grants Gateway to create each proposal to be submitted to the **Department**. Each proposal is comprised of responses to Program Specific Questions (including the uploading of certain completed forms or other required documentation) and developing a scope of work for the proposed Conservation Easement Project.

C. Number of Proposals

Each applicant may submit up to a total of eight (8) proposals (i.e., sum of all proposals in which the applicant is either the sole applicant or a Joint Applicant) in response to this RFP.

VIII. PROPOSAL REVIEW AND AWARDING OF SUCCESSFUL PROPOSALS

A. Review Process

1. Receipt of Proposals

Proposals must be submitted via the New York State Grants Gateway by 4:30pm local time on August 31, 2018. Proposals will be assigned a unique number based on the order of its creation in the Grants Gateway.

All proposals will be screened for eligibility and completeness according to the “Checklist for Proposal Completeness and Assessment of Proposal Completeness / Bonus Points” (refer to Appendix B of this RFP).

If any proposal exhibits one or more of the following fatal flaws, that proposal shall not be considered for funding under this RFP:

1. ineligible applicant;
2. a letter⁸ signed by all participating landowners or a signed letter from each participating landowner was/were omitted from the proposal; or
3. letter of endorsement from the County Agricultural & Farmland Protection Board

⁸ Please attach a letter that has been composed by and signed by all landowners who will participate in the proposed project. (Alternatively, each landowner may submit his/her own letter, provided that a signed letter is submitted for all participating landowners.)

Each letter must clearly address the following items:

1. Why each landowner is participating in the proposed project; and
2. Rationale for why each landowner has chosen a perpetual conservation easement as the means to protect his/her agricultural land.

was omitted from the proposal.

If any other required information is determined to be missing or incomplete or requires further clarification, the applicant will be notified by email and provided five (5) business days to submit the requested information. If the requested information is not submitted by the designated subsequent deadline, the proposal will be deemed incomplete and not be considered for funding. If the requested information is received by the designated subsequent deadline, the proposal will be considered for funding.

Each proposal deemed complete as originally submitted and not in need of any further clarification or additional information shall be awarded 50 points. All other proposals to be considered for funding shall be awarded 0 points.

2. Advisory Council on Agriculture (ACA)

A summary of the proposals to be scored shall be provided to the ACA; ACA members may provide comments on those proposals to the Department's Program Manager. Any comments received by the Program Manager shall be provided to each evaluator.

3. Scoring

Proposals deemed to be complete and eligible will be forwarded to the evaluators for scoring. Scoring is based on selection criteria contained in the Proposal Rating Sheet (see attached sample). Evaluators will review each proposal in relation to how well each proposed Conservation Easement Project will address four funding priorities and four selection criteria.

Projects that are deemed worthy of funding will be those that reflect one or more of the following funding priorities –

- preserve “viable agricultural land” as defined in section three hundred one of the New York State Agriculture and Markets Law;
- are in areas facing significant development pressure;
- serve as a buffer for a significant natural public resource containing important ecosystem or habitat characteristics; or
- have considered future physical climate risk due to sea level rise, storm surges, and/or flooding due to extreme weather events.

Selection criteria include:

1. Project clearly addresses identified need or opportunity (Maximum Score = 250 points x 4 evaluators);
2. Adequate capacity to complete the required work (Maximum Score = 50 points x 4 evaluators);
3. Evidence of local support is documented (Maximum Score = 20 points x 4 evaluators); and
4. Project is cost effective (Maximum Score = 80 points x 4 evaluators).

(a) Aggregate Score – Each evaluator will use a rating sheet to record a score of up to four hundred (400) points for each proposal; each evaluator shall consider any comments received from the ACA into their respective scoring of each proposal.

The four evaluators' scores will be aggregated to determine if the proposal has attained or exceeded the threshold score of twelve hundred (1200) points prior to the assessment of bonus or proposal completeness points. Proposals receiving an aggregate score of less than 1200 points shall not be considered for funding.

Maximum possible aggregated score for any proposal is sixteen hundred (1600) points.

(b) Bonus Points – If applicable, bonus points will be assessed to the aggregate total score by the Program Manager based on the submission of the required information pursuant to the RFP. If the required information for bonus point consideration is not received, no bonus points shall be assessed. Furthermore, if the required information for bonus points is determined to be incomplete, the applicant shall not be afforded any further opportunity to submit the omitted documentation.

Maximum possible bonus points that may be assessed to any proposal is 300.

(c) Proposal Completeness Points – Each proposal deemed complete as originally submitted and not in need of any further clarification or additional information shall be awarded 50 points for proposal completeness. If any required information is determined to be missing from any proposal or requires further clarification, the applicant will be notified by email from the Program Manager and provided five (5) business days to submit the requested information. If the requested information is received by the designated subsequent deadline, the proposal will be considered for funding. However, if the requested information is not submitted by the designated subsequent deadline, the proposal will be deemed incomplete and shall not be considered for funding. All other proposals, except those exhibiting at least one fatal flaw, that were subsequently deemed complete shall be awarded 0 points for proposal completeness.

(d) Final Score – A final score for each proposal shall be determined as follows: (a) aggregated total score + (b) bonus points (if applicable) + (c) proposal completeness points = (d) final score.

Maximum possible final score is 1950 points for any proposal deemed initially complete or 1900 points for any proposal deemed subsequently complete. Minimum possible final score that may be considered for funding is a score of 1200 points without any adjustment through assessment of bonus or proposal completeness points.

B. Determination of Awardees and Non-Awardees

The Department shall compile a list of eligible projects for award consideration. Awards shall be determined pursuant to the procedures described below.

1. Funding of Ranked Projects and Notification of Awardees

Eligible proposals within each region will be compiled in order of overall final score from highest to lowest. For each region, awards will be made to those proposals receiving the highest final scores above the threshold score and continuing until available funds for that region are exhausted, or until all such proposals for that region are funded, whichever occurs first.

Remaining unfunded eligible proposals from all regions for each list that have scored above the threshold score shall then be awarded any remaining available funding beginning with the highest numerical final score and continuing until remaining available funds are exhausted or until all such proposals are funded, whichever occurs first. In the event that two or more proposals have the same final score and there are not enough available funds remaining to fully fund all of those proposals, then the projects to be awarded shall be determined by the following tie-breaking procedure (in order of priority sequence):

1. any portion of the properties comprising the proposed Conservation Easement Project are subject to an unexpired executed Option Agreement resulting from an award from Round 15 FPIG-RFA for Option Agreement Projects,
2. bonus points assessed,
3. protected acreage,
4. extent of Prime Soils as % of protected acreage,
5. extent of protected acreage currently in active agricultural production (i.e., crop and/or livestock production) as % of protected acreage, and, if necessary,
6. coin flip.

If there are insufficient funds remaining to fully award the last eligible project, the remaining funds shall be awarded to that successful applicant. If that applicant chooses to reject the award because of insufficient State funding in relation to that applicant's request, that remaining amount shall be reserved for awards in a future grant opportunity.

The Commissioner will approve a final list pursuant to the award procedures described above and authorize funding of proposals until all eligible projects have been awarded, or until all available funds have been exhausted, whichever occurs first. The Commissioner will notify successful applicants and provide information regarding funding agreements that will be forthcoming from the Department.

2. Funding Agreements

A funding agreement defining all terms, conditions and responsibilities shall be developed by the **Department** upon the **State's** approval of an awarded proposal. New York State has developed a standard "Master Contract" containing standard clauses required in all State Contracts. The Master Contract will be used for all projects awarded under this RFP, and applicants are responsible for complying with the terms and conditions contained therein. The Master Contract can be found at http://www.grantsreform.ny.gov/sites/default/files/docs/nys_master_contract_for_grants_42913.pdf. Attachments to the Master Contract shall include: (A-1) "Specific Terms and Conditions of this Agreement" (please refer to Appendix F of this RFP for a sample of this attachment); (B-2)

“Performance Based Budget” (please refer to Appendix G of this RFP for a sample of this attachment); (C) “Work Plan” (please refer to Appendix H of this RFP for a sample of this attachment); and (D) “Payment and Reporting Schedule” (please refer to Appendix I of this RFP for a sample of this attachment).

Once the funding agreement has been fully executed, State funds will be disbursed on the basis of scheduled payments subject to the “Payment and Reporting Schedule” described in the “Payment & Reporting Requirements of Successful Applicants” section of this RFP. The **Department** shall retain an amount (equivalent to \$10,000 per conservation easement plus reimbursement of conservation easement defense liability insurance for this awarded project) that is to be disbursed to the **Contractor** until such time that the final report for the funding agreement has been accepted by the **Department**.

The **Department** and State Comptroller’s Office reserve the right to audit the Applicant’s books and records relating to the performance of the project during and up to six years after the completion of the project.

3. Contingency Awards

In addition to the funds that are initially awarded under this RFP, the **Department** will set aside approximately \$1.89 million for a contingency fund to allow up to twenty percent (20%) in additional funding for unanticipated project cost increases. Subject to the 20% cap on additional funding, the applicant must provide a match for the total unanticipated project cost increases that is at least equal to the same percentage of match that was committed in the budget and the financial worksheet contained in the initially awarded funding agreement. Contingency funds will be made available to successful applicants on a first-requested, first-awarded basis based on the following criteria:

- i. justification of need for supplemental funding;
- ii. likely adverse consequences to project if supplemental funding is not provided;
- iii. documentation of additional costs supporting a request for funding; and
- iv. likelihood that the project will be successfully completed if funding is provided.

There will be no additional state monies available for cost increases once the contingency funds are exhausted. *Requests for contingency funds should not be included in the initial proposal; successful applicants may only request these funds after a funding agreement is in place.*

4. Notification of Non-Awardees

Applicants whose projects were not funded will be notified by the Land and Water Resources Division Director.

Following the announcement of the applicants awarded funding agreements under this RFP, unsuccessful applicants may request a debriefing from the Department’s Program Manager no later than fifteen (15) calendar days from the date of the award or non-award announcement. This debriefing will be limited to the positive and negative aspects of the subject proposal.

APPENDIX A (SAMPLE ILLUSTRATION): “Checklist for Proposal Completeness and Assessment of Proposal Completeness / Bonus Points”

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New York State Department of Agriculture and Markets
Checklist for Proposal Completeness and Assessment of Proposal Completeness / Bonus Points
RFP0179- Round 16 Proposal for State Assistance Payments for Farmland Protection Implementation Projects

*** = Required element of proposal. Proposal shall not be scored if any √ appears below for “Untimely” or “No”.**

Proposal Completeness	Complete or Yes	Incomplete or Untimely or No
<p>Proposal was submitted* via the New York State Grants Gateway by 4:30pm local time, August 31, 2018.</p> <p>If submission is received by the above deadline and deemed to be “incomplete” or otherwise requiring clarification, the applicant shall be afforded five (5) business days to provide:</p> <ul style="list-style-type: none"> any omitted information requested in Program Specific Questions requiring a response, OR the information requested by Department Program Manager seeking clarification of this proposal. <p>If omitted item(s) is/are not submitted by that subsequent deadline, this proposal shall not be scored.</p>	()	<p>() Incomplete:</p> <p>Specify the omission: () information omitted from initial submission OR () information required clarification OR</p> <p>() Untimely:</p> <p>Specify why: () Omission(s) or requested clarification(s) not submitted by subsequent deadline</p>
<p>Proposal submitted by eligible applicant* (refer to section IV A of the RFP, including being registered (and pre-qualified, as applicable) in Grants Gateway).</p> <p>If “no,” this proposal shall not be scored.</p>	()	() No
<p>All required landowner letter(s)* were included in this proposal (refer to section VIII A 1 of the RFP).</p> <p>If “no,” this proposal shall not be scored.</p>	()	() No
<p>Letter of project endorsement* from County Agricultural & Farmland Protection Board was included in this proposal (refer to section VIII A 1 of the RFP).</p> <p>If “no,” this proposal shall not be scored.</p>	()	() No

Items Deemed Incomplete or Requiring Clarification as Noted Above (specify each): _____

Subsequent Deadline for Receipt of **ALL** Requested Items Noted Above = __ / __ / ____ by close of business
(5 business days after notification by Department Program Manager)

Completeness Determination: () Send to evaluators **OR** () Proposal shall not be scored as noted above

Proposal completeness determined by (please print) _____, Division of Land & Water Resources

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Checklist for Proposal Completeness and Assessment of Proposal Completeness / Bonus Points

RFP0179- Round 16 Proposal for State Assistance Payments for Farmland Protection Implementation Projects

Final Score Calculation:

A **Final Score** for each proposal shall be determined as follows:

(a) aggregated total score (from Evaluators): _____

+ (b) bonus points (if applicable; as assessed by Department Program Manager): _____

+ (c) proposal completeness points (as assessed by Department Program Manager): _____

= _____ **Final Score**

Proposal Completeness Points = _____ (basis for assessment as noted on page 1).

Each proposal deemed complete by the Department's Program Manager and not in need of any further clarification or additional information shall be awarded 50 points.

If any required information is determined to be missing from this proposal or if the Department's Program Manager determines that the proposal's content requires further clarification, the applicant will be notified by email from the Department's Program Manager and provided five (5) business days to submit the requested information. If the requested information is received by the designated deadline and subsequently deemed acceptable by the Program Manager, the proposal will be considered for funding. However, if the requested information is not submitted by the designated deadline, this proposal will be deemed incomplete and shall not be considered for funding. All other proposals, except those exhibiting at least one fatal flaw, that were subsequently deemed complete shall be awarded 0 points for proposal completeness.

Bonus points (as noted herein) shall be awarded by the Department's Program Manager to any proposal *only if* it has attained an aggregate score of at least 1200 points **and** such proposal also includes acceptable documentation for the items described herein.

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New York State Department of Agriculture and Markets
Checklist for Proposal Completeness and Assessment of Proposal Completeness / Bonus Points
RFP0179- Round 16 Proposal for State Assistance Payments for Farmland Protection Implementation Projects

1. Extent to which the supporting documentation (**submit a digital copy (preferably as PDF) of all such documentation**) demonstrates efforts to actively protect local farmland –

- **Seven or more** from the following list must have been accomplished by the applicant and/or project partner entity and documentation of each is attached: ☐ YES = 40 ☐ NO/Inconclusive = 0
- (#14a) municipality within which the proposed Conservation Easement Project is located has an agricultural and farmland protection plan **approved by** the Commissioner of NYS Department of Agriculture & Markets: ☐
 - (#14b) municipality within which the proposed Conservation Easement Project is located has a comprehensive land use plan that has been **updated** within the last 5 years
 - (#14c) all agricultural district(s) within which the subject properties are located are current (i.e., each agricultural district has been reviewed on or before its respective anniversary date): ☐
 - (#14d) right to farm law enacted by either the Town or the County within which the proposed Conservation Easement Project is located: ☐
 - (#14e) farmland mitigation ordinance enacted by the municipality within which the proposed Conservation Easement Project is located: ☐
 - (#14f) municipality within which the proposed Conservation Easement Project is located has established a Transfer of Development Rights (TDR) program that delineates “viable agricultural land”¹ to be protected in its sending areas: ☐
 - (#14g) municipality-sponsored/hosted farm or produce market(s) operate(s) within the County within which the proposed Conservation Easement Project is located: ☐
 - (#14h) applicant (or co-applicant, if applicable) holds or co-holds conservation easement(s) **whose primary purpose** is to preserve “viable agricultural land”¹: ☐
 - (#14i) during the 12-month period preceding the submission of this grant proposal, at least one of the applicant's or project partner's staff or one of any elected or appointed official representing the applicant or a project partner entity has attended a farmland protection or conservation easement training session sponsored by (1) USDA-Natural Resources Conservation Service, or (2) Cornell Cooperative Extension, or (3) Department of Agriculture & Markets, or (4) American Farmland Trust, or (5) Land Trust Alliance: ☐
 - (#14j) applicant has an Agricultural Economic Development (or equivalent) staff position: ☐
 - (#14k) during the 12-month period preceding the submission of this grant proposal, at least one of the applicant's or project partner's staff or one of any elected or appointed official representing the applicant or a project partner has attended an agricultural economic development training session sponsored by (1) any agency of the U.S. Department of Agriculture, or (2) Cornell Cooperative Extension, or (3) Department of Agriculture & Markets, or (4) any State University of New York campus or affiliated community college: ☐
 - (#14l) agri-business expo (or equivalent trade show highlighting local/area agriculture) is conducted annually within the County within which the proposed Conservation Easement Project is located: ☐
 - (#14m) board of commissioners of local fire district(s) (within the Town within which the proposed Conservation Easement Project is located) utilize(s) agricultural use assessments for the purpose of assessing fire district taxes: ☐
 - (#14n) county or municipality within which the proposed Conservation Easement Project is located has conducted “farm friendly” audit to identify unreasonable restrictions in a municipality's land use and subdivision regulations, zoning and site plan requirements pertaining to agricultural land and farm operations
 - (#14o) municipality within which the proposed Conservation Easement Project is located has adopted revisions (deemed acceptable by the Department) to its local laws resulting from a “farm friendly” audit

¹ “Viable agricultural land” means land highly suitable for a farm operation as defined in Section 301(7) of the Agriculture and Markets Law. Refer to Appendix A of this checklist for further information.
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New York State Department of Agriculture and Markets

Checklist for Proposal Completeness and Assessment of Proposal Completeness / Bonus Points

RFP0179- Round 16 Proposal for State Assistance Payments for Farmland Protection Implementation Projects

- (#14p) applicant **and** at least one other local partner collaboratively conduct an inventory of viable agricultural land **and** a screening process to (i) prioritize "at risk" parcels **OR** (ii) gauge landowner readiness to proceed with a farmland protection implementation activity on the inventoried agricultural land
2. Extent to which the supporting documentation (**submit a digital copy (preferably as PDF) of all such documentation**) demonstrates or illustrates the strategic importance of protecting the subject farm to the agricultural industry of –
- (#15a) local municipality (within which the proposed Conservation Easement Project is located), as clearly identified in its Agricultural & Farmland Protection Plan (or equivalent document) adopted by that municipality. ☐ YES = 10 ☐ NO/Inconclusive = 0
 - (#15b) county (within which the proposed Conservation Easement Project is located), as clearly identified in its Agricultural & Farmland Protection Plan adopted by that county. ☐ YES = 10 ☐ NO/Inconclusive = 0
 - (#15c) sub-area (i.e., an area larger than a single county) (within which the proposed Conservation Easement Project is located) of your region (i.e., one of the five regions shown on Figure 1 of the RFP), as clearly identified in a published document focused on a particular sub-area of your region. ☐ YES = 10 ☐ NO/Inconclusive = 0
 - (#15d) majority portion of your region (i.e., one of the five regions shown on Figure 1 of the RFP) within which the proposed Conservation Easement Project is located, as clearly identified in a published document focused on a majority portion of your region. ☐ YES = 10 ☐ NO/Inconclusive = 0
 - (#15e) State of New York (i.e., statewide importance), as clearly identified in a published document that addresses all of New York. ☐ YES = 10 ☐ NO/Inconclusive = 0
3. (#16) Extent to which the supporting documentation (**submit a digital copy (preferably as PDF) of all such documentation**) demonstrates that the subject properties comprising the project area are located within an agricultural district.
- Entire proposed Conservation Easement Project area lies within an agricultural district ☐ YES = 30 **OR**
 - Less than the entire proposed Conservation Easement Project area lies within an agricultural district ☐ YES = 10 **OR**
 - None of the proposed Conservation Easement Project area lies within an agricultural district ☐ YES = 0
4. (#17) Extent to which the supporting documentation (**submit a digital copy (preferably as PDF) of all such documentation**) demonstrates that the subject properties comprising the proposed Conservation Easement Project are covered by Prime Soils (Do NOT include "Prime, if drained" soils.).
- More than 75% of the proposed Conservation Easement Project is covered by Prime Soils ☐ YES = 50 **OR**
 - Less than or equal to 75% but more than 25% of the proposed Conservation Easement Project is covered by Prime Soils ☐ YES = 30 **OR**
 - Some, but less than or equal to 25% of the proposed Conservation Easement Project is covered by Prime Soils ☐ YES = 10 **OR**
 - None of the proposed Conservation Easement Project is covered by Prime Soils ☐ YES = 0

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5. Extent to which the supporting documentation (submit a digital copy (preferably as PDF) of all such documentation) demonstrates that the applicant and/or project partner entity possess(es) the capacity and commitment to adequately monitor, enforce and defend conservation easements.
- (#18a) Applicant and/or project partner entity has a legal defense fund for defense and enforcement of all easements it holds or co-holds or for which it retains a third party with right of enforcement (Please submit a dated financial statement that indicates the current cash balance of the legal defense fund; this cash balance must be distinct from any cash balance restricted to an easement stewardship fund.) ____ YES = 10 ____ NO/Inconclusive = 0
 - (#18b) Applicant and/or project partner entity has an easement stewardship fund to cover annual expenses associated with monitoring of all easement areas (Please submit a dated financial statement that indicates the current cash balance of the easement stewardship fund; this cash balance must be distinct from any cash balance restricted to a legal defense fund.) ____ YES = 10 ____ NO/Inconclusive = 0
 - (#18c) Applicant and/or project partner entity has a written policy regarding easement enforcement (i.e., procedures and forms that must be followed and completed in the event of an easement violation) (Please submit a copy of the policy, all associated forms and copy(ies) of any minutes of meetings of the governing body that adopted this policy.) ____ YES = 5 ____ NO/Inconclusive = 0
 - (#18d) Applicant and/or project partner entity has a written policy and/or documented history of updating the baseline inventory reports for each easement area on a regular interval (e.g., every five years) (Please submit a copy of the policy and copy(ies) of any minutes of meetings of the governing body that adopted this policy, plus documentation of the updating of baseline inventory reports.) ____ YES = 5 ____ NO/Inconclusive = 0
6. (#19) Extent to which the supporting documentation (**submit a digital copy (preferably as PDF) of all such documentation**) demonstrates that the subject properties comprising the proposed Conservation Easement Project are subject to an unexpired executed Option Agreement resulting from an award from Round 15 FPIG-RFA for Option Agreement Projects.
- Entire Conservation Easement Project is subject to an unexpired executed Option Agreement ____ YES = 100 **OR**
 - Less than the entire Conservation Easement Project is subject to an unexpired executed Option Agreement ____ YES = 50 **OR**
 - None of the Conservation Easement Project is subject to an unexpired executed Option Agreement ____ YES = 0

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New York State Department of Agriculture and Markets Checklist for Proposal Completeness and Assessment of Proposal Completeness / Bonus Points RFP0179- Round 16 Proposal for State Assistance Payments for Farmland Protection Implementation Projects

APPENDIX A – Statutory Definition of “farm operation” (AML §301)

7. “Viable agricultural land” means land highly suitable for a farm operation as defined in this section.

11. “Farm operation” means the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a “commercial horse boarding operation” as defined in subdivision thirteen of this section, a “timber operation” as defined in subdivision fourteen of this section and “compost, mulch or other biomass crops” as defined in subdivision sixteen of this section and “commercial equine operation” as defined in subdivision seventeen of this section. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

13. “Commercial horse boarding operation” means an agricultural enterprise, consisting of at least seven acres and boarding at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated either through the boarding of horses or through the production for sale of crops, livestock, and livestock products, or through both such boarding and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing. Notwithstanding any other provision of this subdivision, a commercial horse boarding operation that is proposed or in its first or second year of operation may qualify as a farm operation if it is an agricultural enterprise, consisting of at least seven acres, and boarding at least ten horses, regardless of ownership, by the end of the first year of operation.

14. “Timber operation” means the on-farm production, management, harvesting, processing and marketing of timber grown on the farm operation into woodland products, including but not limited to logs, lumber, posts and firewood, provided that such farm operation consists of at least seven acres and produces for sale crops, livestock or livestock products of an annual gross sales value of ten thousand dollars or more and that the annual gross sales value of such processed woodland products does not exceed the annual gross sales value of such crops, livestock or livestock products.

* NB There are 2 subd. 16's

* 16. “Compost, mulch or other organic biomass crops” means the on-farm processing, mixing, handling or marketing of organic matter that is grown or produced by such farm operation to rid such farm operation of its excess agricultural waste; and the on-farm processing, mixing or handling of off-farm generated organic matter that is transported to such farm operation and is necessary to facilitate the composting of such farm operation's agricultural waste. This shall also include the on-farm processing, mixing or handling of off-farm generated organic matter for use only on that farm operation. Such organic matter shall include, but not be limited to, manure, hay, leaves, yard waste, silage, organic farm waste, vegetation, wood biomass or by-products of

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New York State Department of Agriculture and Markets Checklist for Proposal Completeness and Assessment of Proposal Completeness / Bonus Points RFP0179- Round 16 Proposal for State Assistance Payments for Farmland Protection Implementation Projects

agricultural products that have been processed on such farm operation. The resulting products shall be converted into compost, mulch or other organic biomass crops that can be used as fertilizers, soil enhancers or supplements, or bedding materials. For purposes of this section, "compost" shall be processed by the aerobic, thermophilic decomposition of solid organic constituents of solid waste to produce a stable, humus-like material.

17. "Commercial equine operation" means an agricultural enterprise, consisting of at least seven acres and stabling at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated through the provision of commercial equine activities including, but not limited to riding lessons, trail riding activities or training of horses or through the production for sale of crops, livestock, and livestock products, or through both the provision of such commercial equine activities and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing. Notwithstanding any other provision of this subdivision, an agricultural enterprise that is proposed or in its first or second year of operation may qualify as a commercial equine operation if it consists of at least seven acres and stables at least ten horses, regardless of ownership, by the end of the first year of operation.

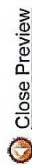
APPENDIX B (SAMPLE ILLUSTRATION): "Proposal Rating Sheet"

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New York State Department of Agriculture and Markets Round 16 Farmland Protection Implementation Grants (FPIG) Program PROPOSAL RATING SHEET – Conservation Easement Projects



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Proposal Rating Sheet - Conservation Easement Projects

Instructions:

1. Please complete all the required fields.
2. Select the Save button above to save your work frequently.
3. When your review is complete, hover over the Management Tools link and click on **Task Checklist**. On the Task Checklist screen, select 'Complete' from the dropdown for your review and click Save.

Please refer to the "Evaluation Instrument" and Appendix B ("Proposal Rating Sheet - Conservation Easement Projects") of the RFP for detailed information regarding how to evaluate each proposal. When entering your score for each of your responses, you must enter that identical score into each of the two response boxes appearing on your screen for each review question. In evaluating proposals for funding, the Commissioner shall give priority to projects that – • preserve "viable agricultural land" as defined in section three hundred one of the New York State Agriculture and Markets Law; • are in areas facing significant development pressure; • serve as a buffer for a significant natural public resource containing important ecosystem or habitat characteristics; and • have considered future physical climate risk due to sea level rise, storm surges, and/or flooding due to extreme weather events. Within this overall context, each evaluator shall assign all or a portion or none of the points available for each item identified within each of the four criteria noted below. A maximum possible score for any proposal is 400 points, which is derived from the total points available as follows: • criterion #1: up to 250 points as distributed over eight items (250pts = 30pts + 30pts + 80pts + 50pts + 30pts + 15pts + 5pts + 10pts); • criterion #2: up to 50 points as distributed over two items (50pts = 30pts + 20pts); • criterion #3: up to 20 points as distributed over two items (20pts = 10pts + 10pts); and • criterion #4: up to 80 points as distributed over four items (80pts = 20pts+20pts+20pts+20pts).

1.1 Please assess between 1 to 30 points to this proposal with regard to how consistent it is with the County's (and, if applicable, the Municipality's) agricultural & farmland protection plan and also how well this proposal describes an identified need or opportunity from such plan(s) that will be addressed by the proposed Conservation Easement Project.

/ 30pts

Comments:

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<div>1.2 Please assess between 1 to 30 points to this proposal with regard to whether this proposal demonstrates that the proposed Conservation Easement Project is located within a mapped area designated as a priority for protection in any policy document of the applicant entity or a local project partner entity.</div> <div><div>*</div><div></div> / 30pts</div> <div>Comments:</div>	<div></div>
<div>1.3 Please assess between 1 to 80 points to this proposal with regard to how well it clearly addresses how the proposed Conservation Easement Project will preserve "viable agricultural land" (including the applicant's consideration of future extreme climate risk and the likelihood that flooding will result from sea level rise, storm surge associated with extreme storms, or more frequent extreme precipitation events). "Viable agricultural land" is defined on page 6 of Appendix C of the RFP.</div> <div><div>*</div><div></div> / 80pts</div> <div>Comments:</div>	<div></div>
<div>1.4 Please assess between 1 to 50 points to this proposal with regard to how well it clearly demonstrates that the proposed Conservation Easement Project is located in areas facing significant development pressure.</div> <div><div>*</div><div></div> / 50pts</div> <div>Comments:</div>	<div></div>
<div>1.5 Please assess between 0 to 30 points to this proposal with regard to how well it clearly demonstrates that the proposed Conservation Easement Project serves as a buffer for a significant natural public resource containing important ecosystem or habitat characteristics.</div> <div><div>*</div><div></div> / 30pts</div> <div>Comments:</div>	<div></div>

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<div><></div>	
1.6 Please assess between 0 to 15 points to this proposal with regard to how well the proposed Conservation Easement Project will protect farmland containing Prime Soils.	<div><div>*</div><div></div> / 15pts</div>
Comments:	<div><></div>
1.7 Please assess between 0 to 5 points to this proposal with regard to how well the proposed Conservation Easement Project will protect farmland containing Soils of Statewide Importance.	<div><div>*</div><div></div> / 5pts</div>
Comments:	<div><></div>
1.8 Please assess between 1 to 10 points to this proposal with regard to how well the proposed Conservation Easement Project will protect "land used in agricultural production."****Land used in agricultural production" is defined on pages 8-9 of Appendix C of the RFP.	<div><div>*</div><div></div> / 10pts</div>
Comments:	<div><></div>
2.1 Please assess between 0 to 30 points to this proposal with regard to how well the applicant entity has demonstrated the qualifications of the project manager, particularly regarding how many FPIG-funded projects for which this person is/was the designated project manager.	<div><div>*</div><div></div> / 30pts</div>
Comments:	<div><></div>

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2.2 Please assess between 1 to 20 points to this proposal with regard to how well the applicant entity has demonstrated the qualifications of the project manager, particularly regarding how many other conservation easement projects for which this person is/was the principally and directly responsible to complete the tasks necessary to enable the conservation easement transaction to close.

*

/ 20pts

Comments:

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3.1 Please assess between 1 to 10 points to this proposal with regard to how well the policy documents of other local project partners describe an identified need or opportunity that will be addressed by the proposed Conservation Easement Project.

*

/ 10pts

Comments:

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3.2 Please assess between 1 to 10 points to this proposal with regard to how well it demonstrates that the proposed Conservation Easement Project is located within a mapped area designated as a priority for protection in a policy document of a local project partner.

*

/ 10pts

Comments:

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4.1 Please assess between 1 to 20 points to this proposal with regard to the cost-effectiveness of the proposed Conservation Easement Project in consideration of the cost-per-acre for estimated value of development rights.

*

/ 20pts

Comments:

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4.2 Please assess between 1 to 20 points to this proposal with regard to the cost-effectiveness of the proposed Conservation Easement Project in consideration of the cost-per-acre for total estimated transaction costs (including all in-kind contributions).

*

/ 20pts

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Comments:

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4.3 Please assess between 1 to 20 points to this proposal with regard to the cost-effectiveness of the proposed Conservation Easement Project in consideration of the % of total project costs contributed by non-State source(s) (including any bargain sale donation plus any cash contribution from participating landowner(s)).

*

/ 20pts

Comments:

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4.4 Please assess between 1 to 20 points to this proposal with regard to the cost-effectiveness of the proposed Conservation Easement Project in consideration of the cost-per-acre of "viable agricultural land" that will benefit from the proposed project.

*

/ 20pts

Comments:

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Reviewer Total Score:
Total Possible Score: 400

Internal Review Comments

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Statutory Definition of "Viable agricultural land" and "Farm operation" (AML §301)

7. "Viable agricultural land" means land highly suitable for a farm operation as defined in this section.

11. "Farm operation" means the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a "commercial horse boarding operation" as defined in subdivision thirteen of this section, a "timber operation" as defined in subdivision fourteen of this section and "compost, mulch or other biomass crops" as defined in subdivision sixteen of this section and "commercial equine operation" as defined in subdivision seventeen of this section. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

13. "Commercial horse boarding operation" means an agricultural enterprise, consisting of at least seven acres and boarding at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated either through the boarding of horses or through the production for sale of crops, livestock, and livestock products, or through both such boarding and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing. Notwithstanding any other provision of this subdivision, a commercial horse boarding operation that is proposed or in its first or second year of operation may qualify as a farm operation if it is an agricultural enterprise, consisting of at least seven acres, and boarding at least ten horses, regardless of ownership, by the end of the first year of operation.

14. "Timber operation" means the on-farm production, management, harvesting, processing and marketing of timber grown on the farm operation into woodland products, including but not limited to logs, lumber, posts and firewood, provided that such farm operation consists of at least seven acres and produces for sale crops, livestock or livestock products of an annual gross sales value of ten thousand dollars or more and that the annual gross sales value of such processed woodland products does not exceed the annual gross sales value of such crops, livestock or livestock products.

* NB There are 2 subd. 16's

* 16. "Compost, mulch or other organic biomass crops" means the on-farm processing, mixing, handling or marketing of organic matter that is grown or produced by such farm operation to rid such farm operation of its excess agricultural waste; and the on-farm processing, mixing or handling of off-farm generated organic matter that is transported to such farm operation and is necessary to facilitate the composting of such farm operation's agricultural waste. This shall also include the on-farm processing, mixing or handling of off-farm generated organic matter for use only on that farm operation. Such organic matter shall include, but not be limited to, manure, hay, leaves, yard waste, silage, organic farm waste, vegetation, wood biomass or by-products of agricultural products that have been processed on such farm operation. The resulting products shall be converted into compost, mulch or other organic biomass crops that can be used as fertilizers, soil enhancers or supplements, or bedding materials. For purposes of this section,

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"compost" shall be processed by the aerobic, thermophilic decomposition of solid organic constituents of solid waste to produce a stable, humus-like material.

17. "Commercial equine operation" means an agricultural enterprise, consisting of at least seven acres and stabling at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated through the provision of commercial equine activities including, but not limited to riding lessons, trail riding activities or training of horses or through the production for sale of crops, livestock, and livestock products, or through both the provision of such commercial equine activities and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing. Notwithstanding any other provision of this subdivision, an agricultural enterprise that is proposed or in its first or second year of operation may qualify as a commercial equine operation if it consists of at least seven acres and stables at least ten horses, regardless of ownership, by the end of the first year of operation.

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Statutory Definition of "Land used in agricultural production" (AML §301)

4. "Land used in agricultural production" means not less than seven acres of land used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of ten thousand dollars or more; or, not less than seven acres of land used in the preceding two years to support a commercial horse boarding operation with annual gross receipts of ten thousand dollars or more. Land used in agricultural production shall not include land or portions thereof used for processing or retail merchandising of such crops, livestock or livestock products. Land used in agricultural production shall also include:

a. Rented land which otherwise satisfies the requirements for eligibility for an agricultural assessment.

a-1. Land used by a not-for-profit institution for the purposes of agricultural research that is intended to improve the quality or quantity of crops, livestock or livestock products. Such land shall qualify for an agricultural assessment upon application made pursuant to paragraph (a) of subdivision one of section three hundred five of this article, except that no minimum gross sales value shall be required.

b. Land of not less than seven acres used as a single operation for the production for sale of crops, livestock or livestock products, exclusive of woodland products, which does not independently satisfy the gross sales value requirement, where such land was used in such production for the preceding two years and currently is being so used under a written rental arrangement of five or more years in conjunction with land which is eligible for an agricultural assessment.

c. Land used in support of a farm operation or land used in agricultural production, constituting a portion of a parcel, as identified on the assessment roll, which also contains land qualified for an agricultural assessment. Such land shall include land used for agricultural amusements which are produced from crops grown or produced on the farm, provided that such crops are harvested and marketed in the same manner as other crops produced on such farm. Such agricultural amusements shall include, but not be limited to, so-called "corn mazes" or "hay bale mazes."

d. Farm woodland which is part of land which is qualified for an agricultural assessment, provided, however, that such farm woodland attributable to any separately described and assessed parcel shall not exceed fifty acres.

e. Land set aside through participation in a federal conservation program pursuant to title one of the federal food security act of nineteen hundred eighty-five or any subsequent federal programs established for the purposes of replenishing highly erodible land which has been depleted by continuous tilling or reducing national surpluses of agricultural commodities and such land shall qualify for agricultural assessment upon application made pursuant to paragraph a of subdivision one of section three hundred five of this article, except that no minimum gross sales value shall be required.

f. Land of not less than seven acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of ten thousand dollars or more, or land of less than seven acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of fifty thousand dollars or more.

g. Land under a structure within which crops, livestock or livestock products are produced, provided that the sales of such crops, livestock

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or livestock products meet the gross sales requirements of paragraph f of this subdivision.

h. Land that is owned or rented by a farm operation in its first or second year of agricultural production, or, in the case of a commercial horse boarding operation in its first or second year of operation, that consists of (1) not less than seven acres used as a single operation for the production for sale of crops, livestock or livestock products of an annual gross sales value of ten thousand dollars or more; or (2) less than seven acres used as a single operation for the production for sale of crops, livestock or livestock products of an annual gross sales value of fifty thousand dollars or more; or (3) land situated under a structure within which crops, livestock or livestock products are produced, provided that such crops, livestock or livestock products have an annual gross sales value of (i) ten thousand dollars or more, if the farm operation uses seven or more acres in agricultural production, or (ii) fifty thousand dollars or more, if the farm operation uses less than seven acres in agricultural production; or (4) not less than seven acres used as a single operation to support a commercial horse boarding operation with annual gross receipts of ten thousand dollars or more.

i. Land of not less than seven acres used as a single operation for the production for sale of orchard or vineyard crops when such land is used solely for the purpose of planting a new orchard or vineyard and when such land is also owned or rented by a newly established farm operation in its first, second, third or fourth year of agricultural production.

j. Land of not less than seven acres used as a single operation for the production and sale of Christmas trees when such land is used solely for the purpose of planting Christmas trees that will be made available for sale, whether dug for transplanting or cut from the stump and when such land is owned or rented by a newly established farm operation in its first, second, third, fourth or fifth year of agricultural production.

k. Land used to support an apiary products operation which is owned by the operation and consists of (i) not less than seven acres nor more than ten acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of ten thousand dollars or more or (ii) less than seven acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of fifty thousand dollars or more. The land used to support an apiary products operation shall include, but not be limited to, the land under a structure within which apiary products are produced, harvested and stored for sale; and a buffer area maintained by the operation between the operation and adjacent landowners. Notwithstanding any other provision of this subdivision, rented land associated with an apiary products operation is not eligible for an agricultural assessment based on this paragraph.

l. Land that is owned or rented by a farm operation in its first or second year of agricultural production or in the case of a commercial equine operation, in its first or second year of operation, that consists of not less than seven acres and stabling at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated through the provision of commercial equine activities including, but not limited to riding lessons, trail riding activities or training of horses or through the production for sale of crops, livestock, and livestock products, or through both the provision of such commercial equine activities and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing.