

**NEW YORK STATE  
DEPARTMENT OF AGRICULTURE AND MARKETS  
REQUEST FOR APPLICATIONS**

**for State Assistance Payments for**

**ROUND 15-B  
FARMLAND PROTECTION IMPLEMENTATION GRANTS PROGRAM**

**Transaction Costs for Donated Agricultural Conservation Easements**

**2018**

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## TIMELINE

Release Request For Applications (RFA)	mid-March 2018
Questions and Answers	Questions and answers will be posted on an ongoing basis as they are received.
<b>Deadline for Applications</b>	<b>NONE</b>
Announce and Award Grants	Beginning mid-May 2018 and ongoing thereafter.

## I. APPLICATION SUBMISSION REQUIREMENTS

Applications for funding under the Round 15-B Farmland Protection Implementation Grants (FPIG) Program – Transaction Costs for Donated Agricultural Conservation Easements must conform to the format provided in the Grants Gateway. **APPLICATIONS MUST BE SUBMITTED via the Grants Gateway** to be considered for funding. Faxed, mailed or e-mailed applications will not be accepted.

## II. QUESTIONS AND ANSWERS

All questions about requirements contained in this RFA must be submitted in writing (via mail or delivery service or by facsimile or e-mail) 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](mailto:david.behm@agriculture.ny.gov)

To the degree possible, each inquiry should cite the RFA title, section and paragraph to which it refers. Applicants should note that all clarifications are expected to be resolved prior to the submission of an application. A list of questions about the program received from potential applicants, and answers to those questions, as well as any changes, additions or deletions to the RFA, will be posted in the “Funding Opportunities” section of the **Department’s** web site, [www.agriculture.ny.gov](http://www.agriculture.ny.gov), under the heading “Questions and Answers” along with the electronic version of this RFA. Questions and responses will be posted as questions are received. **Applicants are urged to check the Department’s web site frequently for notices of any changes, additions or deletions to the RFA.** 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 RFA.

## III. GENERAL PROGRAM INFORMATION

### A. Intent of Request for Applications (RFA)

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

Grant applications will be accepted on a continuous basis. The RFA will remain open and awards will be made until such time as available funds are fully committed, or the RFA is closed.

### 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 eligible transaction 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 for which the participating landowner has donated the full value of development rights (i.e, the landowner receives no financial consideration for the sale of the perpetual agricultural conservation easement).

## **IV. ELIGIBILITY**

### **A. Applicant Eligibility**

Applications 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 an application 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 application. Any application submitted by an ineligible applicant shall not be considered for funding under this RFA.**

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

New York State vendors must register in the Grants Gateway to become established users in the system. Therefore, **each entity that intends to submit an application in response to this RFA must be registered.** If your entity has not registered, you will be unable to access this grant opportunity and unable to submit any applications.

Furthermore, **all not-for-profit conservation organizations that intend to submit an application must also be pre-qualified prior to the submission of your application(s).** If your not-for-profit conservation organization has not pre-qualified in the Grants Gateway by the time you submit your application(s), each application you submit will be rejected. However, each rejected application may be resubmitted and considered for funding under this RFA once your not-for-profit conservation organization has become pre-qualified provided this RFA is open to receive applications and make awards by the time that the application is resubmitted.

## **B. Project Eligibility**

An eligible project is a Conservation Easement Project that will result in the donation of perpetual agricultural conservation easement(s) on viable agricultural land. Viable agricultural land means land highly suitable for a Farm Operation as that term is defined in Section 301 of Article 25-AA of the Agriculture and Markets Law.

An eligible project must satisfy all project eligibility criteria:

1. region-specific<sup>1</sup> minimum acreage (i.e., size of Conservation Easement Project);
2. region-specific<sup>1</sup> minimum percentage (%) for Extent of Active Agricultural Production;
3. region-specific<sup>1</sup> minimum percentage (%) for sum of Prime Soils (not “Prime if drained”) plus Soils of Statewide Importance (not “Prime if drained” and not “Unique”);
4. site plan for the Conservation Easement Project that is fully consistent with Department guidance regarding land planning for an agricultural conservation easement project (please refer to “Policy Guidance” on page 10 of this RFA); and
5. use of **one of the following conservation easements:**
  - a. Department’s **“2016 Model Agricultural Conservation Easement”** (or the most current subsequent version available) without modification thereto, **OR**

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<sup>1</sup> Please refer to Appendices A-1 through A-5 for the region-specific minimum requirement for the particular region (i.e., Central, Eastern, Hudson Valley, Long Island, or Western) in which the proposed project is located.

- b. applicant easement containing the Department's "**FPIG Program Required Easement Provisions (2016 version)**" (or the most current subsequent version available) without modification thereto, **provided the applicant easement:**
  - i. contains no reference to §247 of New York State General Municipal Law, **and**
  - ii. shall not unreasonably restrict or regulate Farm Operations in contravention of the purposes of Article 25-AA of the Agriculture and Markets Law.

To be eligible for funding under this RFA, each proposed project must be located in 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. If the applicant entity associated with the proposed project is a not-for-profit conservation organization or a soil and water conservation district, the application must also be endorsed for funding in a letter provided by the municipality 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 application provided that requested funding does not overlap the same land. **Any application that does not involve at least one (1) Farm Operation will not be considered for funding under this RFA.**

## **V. DETAILED SPECIFICATIONS AND DELIVERABLES OF THE FUNDING AGREEMENT**

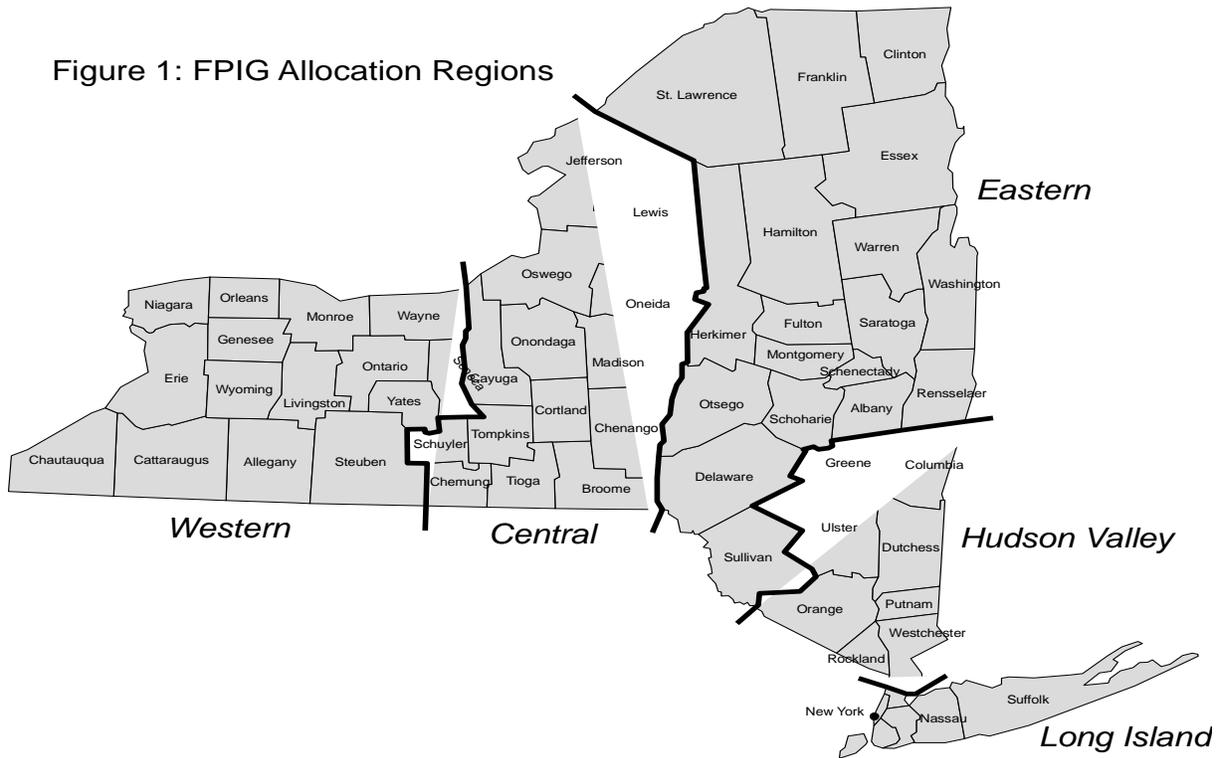
### **A. Anticipated Time Frames**

The start date for initially awarded funding agreements (i.e., those FPIG contracts between the State and the awarded applicant entity) resulting from this RFA is anticipated to be on or around May 15, 2018. Each funding agreement shall have a four-year contract period.

### **B. Available Funds**

The **Department** has made available \$1.0 million for awards under this RFA through an open application and awards process with \$200,000 available within each of five (5) regions across the state (see Figure 1 below). Maximum funding to any individual awarded project shall be \$50,000. After May 31, 2019, the Commissioner may award available funds to eligible projects without regard to regional boundaries.

Figure 1: FPIG Allocation Regions



The following general limitations apply to all applications:

- No award shall exceed \$50,000 of State financial assistance.
- 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** are transaction costs acceptable to the Department, provided those are limited to:

1. title reports (including associated continuation fees *if title insurance is purchased*);
2. title insurance (*if purchased*);
3. property surveys;
4. appraisal(s) (one per donated agricultural conservation easement);
5. applicant's legal fees to negotiate/close the conservation easement transaction and to review title reports and, as necessary, prepare title curatives;
6. 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;

7. preparation of a baseline documentation report regarding the proposed Conservation Easement Project;
8. environmental site assessment (*if* deemed necessary);
9. recording fees;
10. easement stewardship fee; and
11. conservation easement defense liability insurance.

## **(2) Ineligible Project Costs**

**Any costs incurred prior to the start date of a funding agreement shall not be deemed eligible costs under this RFA. 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;
- 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); and
- Option to Purchase at Agricultural Value (OPAV) or Preemptive Purchase Right (PPR) or Right of First Refusal (RFR) or similar provision contained in any document (e.g., purchase agreement, conservation easement, etc.) associated with any project awarded through this RFA.

## **D. Match Requirements**

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

- Local match contribution must be at least 25% of total eligible project costs.
- Any governmental entity providing a cash contribution must provide a letter from an authorized representative formally acknowledging its proposed contribution<sup>2</sup>.
- Any other entity 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.
- Cash and in-kind match shall only be used to cover the expense of eligible project costs.
- Cash and in-kind match may be provided by the applicant or other supporters of the project.

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<sup>2</sup> If a governmental entity receives an award through this RFA, a copy of a resolution from its governing body formally obligating its cash match must be submitted before the State will approve the funding agreement.

- 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.
- Local cash contribution may include funding from any Federal source.

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	
\$50,000	75.0% of total project costs	\$10,000 per easement toward easement stewardship	25.0% of total project costs	None	Use of Department conservation easement <b>OR</b> Use of Department-required conservation easement provisions provided remainder of conservation easement – (a) “shall not unreasonably restrict or regulate Farm Operations in contravention of the purposes of Article 25-AA of the AML,” <b>AND</b> (b) contains no reference to §247 of New York State General Municipal Law

### E. Policy Guidance

The **Department** is providing the following guidance documents to assist in the compilation of an application 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”](#) (*recommended for all Conservation Easement Projects*);
- [“Farmland Protection Implementation Grants \(FPIG\) Program Required Easement Provisions \(2016 version\)”](#) (*if the **Department’s** model conservation easement is not used, then these provisions are *required* to be incorporated into the applicant’s conservation easement document*); **AND**
- [“Appraisals for Conservation Easements \(GD#6\)”](#).

The **Department’s** Division of Land and Water Resources shall evaluate the proposed conservation easement document and proposed site plan for conformance with **Department** policies contained in the guidance documents listed above.

Any conservation easement or site plan deemed by the **Department’s** Division of Land and Water Resources to be unacceptable shall not be eligible for a disbursement.

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

The project deliverable required for a preliminary review is a **title report plus title curatives letter**<sup>3</sup> from Grantee attorney explaining how proposed title curatives (if any) conform to Department guidance. This project deliverable must be submitted within six (6) months of state approval of the funding agreement.

### Final Report

**All Conservation Easement Projects** must receive the **Department's** preliminary approval **before proceeding to compile a complete final report**. After the **Department** has given its preliminary approval of the proposed Conservation Easement Project, a complete final report must be submitted by the local project manager to the **Department** no later than sixty (60) calendar days prior to the expiration of the funding agreement. The project deliverables required for a final report review are as follows:

1. **Appraisal report** (one per conservation easement to be submitted as one (1) digital file (PDF) plus two (2) paper copies of each appraisal report);
2. **Conservation Easement (recorded version)** submitted as one digital file (PDF); and
3. **Closing Statement spreadsheet** for Conservation Easement Project (submitted as one digital file (PDF)).

## VI. ADMINISTRATIVE REQUIREMENTS AND RELATED CONSIDERATIONS

### A. Issuing Agency

This RFA 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 applications.

### B. The Department's Reserved Rights

The **Department** reserves the right to:

1. Reject any or all applications received in response to this RFA.
2. Withdraw the RFA at any time, at the **Department's** sole discretion.
3. Make an award under the RFA in whole or part.
4. Award more than one funding agreement to the same successful applicant resulting from this RFA.

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<sup>3</sup> Applicant shall submit to the **Department** a title report issued by a New York State licensed title insurance company which proves that the Owner owns fee title to the subject property and that such ownership is insurable. The title report must include at least a 40-year search for all liens and encumbrances which may affect the property. The applicant does not need to provide a title insurance commitment showing clear title to the property, free of all liens and encumbrances. The **Department** will review the title report to ensure that the Owner owns fee title to the property which is insurable; and provide comments to the applicant. The **Department** may request, and the Applicant shall provide, further information about any liens and encumbrances which are identified in the title report.

5. Disqualify any applicant whose conduct and/or application fails to conform to the requirements of the RFA.
6. Seek clarifications and revisions of applications.
7. Amend the RFA 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](http://www.agriculture.ny.gov)) and on the New York State Grants Gateway ([https://grantsgateway.ny.gov/IntelliGrants\\_NYSSGG/module/nysgg/goportal.aspx](https://grantsgateway.ny.gov/IntelliGrants_NYSSGG/module/nysgg/goportal.aspx)).
8. Direct applicants to submit application modifications addressing subsequent RFA amendments.
9. Change any of the scheduled dates.
10. Waive any requirements that are not material.
11. Waive or modify minor irregularities in applications 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 application and/or to determine an offerer's compliance with the requirements of the RFA.
13. Negotiate with successful applicants any matter within the scope of the RFA 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 <sup>4</sup>	SCHEDULED PAYMENT <sup>5</sup> (State Contribution)
<b>Contract Approval Date</b>	<b>Department</b> notification to successful applicant of approval of funding agreement by New York State.	<b>Advance Payment</b> includes: <ul style="list-style-type: none"> <li>Title report stipend (\$1,500)</li> <li>Project partners' staff time (1/2 of state contribution)</li> <li>Project partners' legal fees (1/2 of state contribution)</li> </ul>
<b>Month 1 to 6</b> (After <b>Department</b> notification of State approval of funding agreement)	Submission for Preliminary Review: <ul style="list-style-type: none"> <li>Title report and title curatives letter</li> </ul>	
- -	<b>Department</b> Preliminary Approval of project.	<b>Interim Payment</b> includes: <ul style="list-style-type: none"> <li>Balance of contract award, less Final Payment.</li> </ul>
<b>60 Calendar Days</b> (Prior to expiration of the funding agreement)	Submission of Final Report for Review: <ul style="list-style-type: none"> <li>Appraisal</li> <li>Copy of recorded version of Conservation Easement</li> <li>Closing Statement spreadsheet</li> </ul>	
- -	<b>Department</b> approval of Final Report.	<b>Final Payment</b> includes: <ul style="list-style-type: none"> <li>Easement stewardship (@ \$10,000 per easement)</li> <li>Conservation easement defense liability insurance</li> </ul>

<sup>4</sup> 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 RFA; 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.

<sup>5</sup> 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\\_NYSSGG/module/nysgg/goportal.aspx](https://grantsgateway.ny.gov/IntelliGrants_NYSSGG/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 an application in response to this RFA must be registered.** If your entity has not registered prior to the submission of your application(s), each application you submit will be rejected and not considered for funding under this RFA.

Furthermore, **all not-for-profit conservation organizations that intend to submit an application in response to this RFA must also be pre-qualified prior to the submission of your application(s).** If you have not pre-qualified in the Grants Gateway by the time that you submit your application(s), each application you submit will be rejected and not considered for funding under this RFA. 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](mailto: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](mailto: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 an application indicates the applicant's acceptance of all conditions and terms contained in this RFA, 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 application.
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 RFA, 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](http://www.dec.ny.gov) for further information regarding applicability.
2. Freedom Of Information Law (FOIL). All applications 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 an application or for any work performed prior to the formal execution of a funding agreement.

## VII. COMPLETING THE APPLICATION

### A. Application Format

Applications must be submitted through the New York State Grants Gateway. All sections of the application must be completed in order for you to be enabled to submit your digital application.

### B. Application Content

Applicants must respond to each of the sections as provided in the Grants Gateway to create each application to be submitted to the **Department**. Each application 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.

Please be advised that there are space limits for your response to each question in the online application. Evaluation of your application will be limited to review and consideration of only the information contained in your responses comprising your application. Material that is not required or otherwise specifically requested to be included in the application 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).

### **C. Number of Applications**

**There is no limit to the number of applications** that may be submitted by an eligible applicant (whether as a single or joint applicant or in combination thereof) in response to this RFA.

## **VIII. APPLICATION REVIEW AND AWARDING OF SUCCESSFUL APPLICATIONS**

### **A. Review Process**

#### **1. Pass / Fail Criteria**

Applications must be submitted via the New York State Grants Gateway. Applications will be assigned a unique number based on the order of its creation in the Grants Gateway.

Grant applications will be accepted on a continuous basis. The RFA will remain open and awards will be made until such time as available funds are fully committed, or the RFA is closed.

All applications will be reviewed on the following pass/fail criteria. Any application that fails any one of these criteria will be rejected:

1. application describes a project that meets or exceeds the region-specific minimum acreage requirement;
2. application describes a project that meets or exceeds the region-specific minimum percentage (%) for extent of active agricultural production;
3. application describes a project that meets or exceeds the region-specific minimum percentage (%) for the sum of Prime Soils (not “Prime if drained”) plus Soils of Statewide Importance (not “Prime if drained” and not “Unique”);
4. application contains a site plan for the Conservation Easement Project that is fully consistent with **Department** guidance regarding land planning for an agricultural conservation easement, and;
5. application contains one of the following as its proposed conservation easement:
  - a. **Department’s** most current “Model Agricultural Conservation Easement” without modification thereto, **OR**
  - b. applicant conservation easement containing the Department’s most current “[FPIG Program Required Easement Provisions](#)” without modification thereto, provided the applicant easement:

- i. contains no references to §247 of New York State General Municipal Law, **and**
- ii. shall not unreasonably restrict or regulate Farm Operations in contravention of the purposes of Article 25-AA of the Agriculture and Markets Law.

Eligible applicants may resubmit a previously rejected application after addressing each failed criteria.

## 2. Advisory Council on Agriculture (ACA)

ACA members will be notified about and afforded the opportunity to provide comments to the **Department's** Program Manager regarding those applications eligible for an award. Any comments received by the Program Manager shall be considered prior to an award being made to an applicant.

### **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 Acceptable Projects and Notification of Awardees

All applications will be reviewed for eligibility and completeness based upon the respective regional Project Eligibility Criteria Checklist. All eligible applicants shall receive funding for approved project costs in the order that complete eligible applications are deemed acceptable for an award until all funds allocated for awards arising from the RFA are exhausted or until this RFA is closed. The Commissioner will notify successful applicants and provide information regarding funding agreements that will be forthcoming from the **Department**.

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

#### 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 application. 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 RFA, 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](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"; (B-2) "Performance Based Budget"; (C) "Work Plan"; and (D) "Payment and Reporting Schedule".

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 RFA.

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. Debriefings

Following the announcement of the applicants awarded funding agreements under this RFA, unsuccessful applicants may request a debriefing from the **Department's** Program Manager no later than thirty (30) days from the date of the non-award notification. This debriefing will be limited to a discussion of the failed aspects of the subject application.

APPENDIX A-1 (**SAMPLE ILLUSTRATION**): Project Eligibility Checklist  
 "Transaction Costs for Donated Agricultural Conservation Easements-Central Region"

**FOR NYSDAM USE ONLY**

**Project Eligibility Criteria Checklist for Round 15-B FPIG-RFA  
 Transaction Costs for Donated Agricultural Conservation Easements - Central Region**

		RESULT	
		PASS	FAIL
Size of Option Agreement Project =	<input type="text" value="0.0000"/> acres	<input type="checkbox"/>	<input type="checkbox"/>
<i>If &lt;146 acres, this project shall not be awarded.</i>			
Extent of Active Agricultural Production =	<input type="text" value="0.0"/> acres	<input type="checkbox"/>	<input type="checkbox"/>
<i>If &lt;50%, this project shall not be awarded.</i>			
Extent of Productive Soils =		<input type="checkbox"/>	<input type="checkbox"/>
Extent of Prime Soils (NOT "Prime if drained")	<input type="text" value="0.0"/> acres	<input type="checkbox"/>	
Extent of Soils of Statewide Importance (NOT "Prime" or "Prime if drained" or "Unique")	<input type="text" value="0.0"/> acres	<input type="checkbox"/>	
<i>If sum &lt;21%, this project shall not be awarded.</i>			
Site Plan for Option Agreement Project		<input type="checkbox"/>	<input type="checkbox"/>
<i>If site plan is not fully consistent with Department guidance, this project shall not be awarded.</i>			
Conservation Easement for Option Agreement Project		<input type="checkbox"/>	<input type="checkbox"/>
Select ONE:			
<input type="checkbox"/>	Department Model Agricultural Conservation Easement		
<input type="checkbox"/>	Applicant Easement containing Department-required provisions		
<i>This project shall not be awarded if:</i>			
(1) conservation easement contains any reference to §247 of General Municipal Law as authority to acquire conservation easements, or		<input type="checkbox"/>	
(2) conservation easement contains any unreasonably restrictive provision, or		<input type="checkbox"/>	
(3) conservation easement has omitted any Department-required provision, or		<input type="checkbox"/>	
(4) (if applicable) Department model easement has had any modification made to its template language.		<input type="checkbox"/>	
Application includes all required content of the online application.		<input type="checkbox"/>	<input type="checkbox"/>
Application requests State contribution of no more than \$50,000.		<input type="checkbox"/>	<input type="checkbox"/>
Up to 75.0% State cost-share assistance:		<input type="checkbox"/>	<input type="checkbox"/>
<i>This project shall not be awarded if:</i>			
(1) purchase price >\$0, or		<input type="checkbox"/>	
(2) >75.0% of total project costs are shown to be paid by the requested State award.		<input type="checkbox"/>	
Application contains no ineligible project cost.		<input type="checkbox"/>	<input type="checkbox"/>

**APPENDIX A-2 (SAMPLE ILLUSTRATION): Project Eligibility Checklist  
 "Transaction Costs for Donated Agricultural Conservation Easements-Eastern Region"**

**FOR NYSDAM USE ONLY**

**Project Eligibility Criteria Checklist for Round 15-B FPIG-RFA  
 Transaction Costs for Donated Agricultural Conservation Easements - Eastern Region**

		RESULT	
		PASS	FAIL
Size of Option Agreement Project =	<input type="text" value="0.0000"/> acres	<input type="checkbox"/>	<input type="checkbox"/>
<i>If &lt;58 acres, this project shall not be awarded.</i>			
Extent of Active Agricultural Production =	<input type="text" value="0.0"/> acres	<input type="checkbox"/>	<input type="checkbox"/>
<i>If &lt;32%, this project shall not be awarded.</i>			
Extent of Productive Soils =		<input type="checkbox"/>	<input type="checkbox"/>
Extent of Prime Soils (NOT "Prime if drained")	<input type="text" value="0.0"/> acres		
Extent of Soils of Statewide Importance (NOT "Prime" or "Prime if drained" or "Unique")	<input type="text" value="0.0"/> acres		
<i>If sum &lt;7%, this project shall not be awarded.</i>			
Site Plan for Option Agreement Project		<input type="checkbox"/>	<input type="checkbox"/>
<i>If site plan is not fully consistent with Department guidance, this project shall not be awarded.</i>			
Conservation Easement for Option Agreement Project		<input type="checkbox"/>	<input type="checkbox"/>
Select ONE:			
<input type="checkbox"/>	Department Model Agricultural Conservation Easement		
<input type="checkbox"/>	Applicant Easement containing Department-required provisions		
<i>This project shall not be awarded if:</i>			
(1) conservation easement contains any reference to §247 of General Municipal Law as authority to acquire conservation easements, or		<input type="checkbox"/>	
(2) conservation easement contains any unreasonably restrictive provision, or		<input type="checkbox"/>	
(3) conservation easement has omitted any Department-required provision, or		<input type="checkbox"/>	
(4) (if applicable) Department model easement has had any modification made to its template language.		<input type="checkbox"/>	
Application includes all required content of the online application.		<input type="checkbox"/>	<input type="checkbox"/>
Application requests State contribution of no more than \$50,000.		<input type="checkbox"/>	<input type="checkbox"/>
Up to 75.0% State cost-share assistance:		<input type="checkbox"/>	<input type="checkbox"/>
<i>This project shall not be awarded if:</i>			
(1) purchase price >\$0, or		<input type="checkbox"/>	
(2) >75.0% of total project costs are shown to be paid by the requested State award.		<input type="checkbox"/>	
Application contains no ineligible project cost.		<input type="checkbox"/>	<input type="checkbox"/>

**APPENDIX A-3 (SAMPLE ILLUSTRATION): Project Eligibility Checklist**  
**“Transaction Costs for Donated Agricultural Conservation Easements-Hudson Valley Region”**

**FOR NYSDAM USE ONLY**

**Project Eligibility Criteria Checklist for Round 15-B FPIG-RFA**  
**Transaction Costs for Donated Agricultural Conservation Easements - Hudson Valley Region**

		RESULT	
		PASS	FAIL
Size of Option Agreement Project =	<input type="text" value="0.0000"/> acres	<input type="checkbox"/>	<input type="checkbox"/>
<i>If &lt;73 acres, this project shall not be awarded.</i>			
Extent of Active Agricultural Production =	<input type="text" value="0.0"/> acres	<input type="checkbox"/>	<input type="checkbox"/>
<i>If &lt;35%, this project shall not be awarded.</i>			
Extent of Productive Soils =		<input type="checkbox"/>	<input type="checkbox"/>
Extent of Prime Soils (NOT "Prime if drained")	<input type="text" value="0.0"/> acres		
Extent of Soils of Statewide Importance (NOT "Prime" or "Prime if drained" or "Unique")	<input type="text" value="0.0"/> acres		
<i>If sum &lt;4%, this project shall not be awarded.</i>			
Site Plan for Option Agreement Project		<input type="checkbox"/>	<input type="checkbox"/>
<i>If site plan is not fully consistent with Department guidance, this project shall not be awarded.</i>			
Conservation Easement for Option Agreement Project		<input type="checkbox"/>	<input type="checkbox"/>
Select ONE:			
<input type="checkbox"/>	Department Model Agricultural Conservation Easement		
<input type="checkbox"/>	Applicant Easement containing Department-required provisions		
<i>This project shall not be awarded if:</i>			
(1)	conservation easement contains any reference to §247 of General Municipal Law as authority to acquire conservation easements, or	<input type="checkbox"/>	
(2)	conservation easement contains any unreasonably restrictive provision, or	<input type="checkbox"/>	
(3)	conservation easement has omitted any Department-required provision, or	<input type="checkbox"/>	
(4)	(if applicable) Department model easement has had any modification made to its template language.	<input type="checkbox"/>	
Application includes all required content of the online application.		<input type="checkbox"/>	<input type="checkbox"/>
Application requests State contribution of no more than \$50,000.		<input type="checkbox"/>	<input type="checkbox"/>
Up to 75.0% State cost-share assistance:		<input type="checkbox"/>	<input type="checkbox"/>
<i>This project shall not be awarded if:</i>			
(1)	purchase price >\$0, or	<input type="checkbox"/>	
(2)	>75.0% of total project costs are shown to be paid by the requested State award.	<input type="checkbox"/>	
Application contains no ineligible project cost.		<input type="checkbox"/>	<input type="checkbox"/>

**APPENDIX A-4 (SAMPLE ILLUSTRATION): Project Eligibility Checklist**  
**“Transaction Costs for Donated Agricultural Conservation Easements-Long Island Region”**

**FOR NYSDAM USE ONLY**

**Project Eligibility Criteria Checklist for Round 15-B FPIG-RFA**  
**Transaction Costs for Donated Agricultural Conservation Easements - Long Island Region**

		RESULT	
		PASS	FAIL
Size of Option Agreement Project =	0.0000 acres		
<i>If &lt;17 acres, this project shall not be awarded.</i>			
Extent of Active Agricultural Production =	0.0 acres	#DIV/0!	
<i>If &lt;95%, this project shall not be awarded.</i>			
Extent of Productive Soils =		#DIV/0!	
Extent of Prime Soils (NOT "Prime if drained")			
Extent of Soils of Statewide Importance (NOT "Prime" or "Prime if drained" or "Unique")			
<i>If sum &lt;94%, this project shall not be awarded.</i>			
Site Plan for Option Agreement Project			
<i>If site plan is not fully consistent with Department guidance, this project shall not be awarded.</i>			
Conservation Easement for Option Agreement Project			
Select ONE:			
<input type="checkbox"/> Department Model Agricultural Conservation Easement			
<input type="checkbox"/> Applicant Easement containing Department-required provisions			
<i>This project shall not be awarded if:</i>			
(1) conservation easement contains any reference to §247 of General Municipal Law as authority to acquire conservation easements, or			
(2) conservation easement contains any unreasonably restrictive provision, or			
(3) conservation easement has omitted any Department-required provision, or			
(4) (if applicable) Department model easement has had any modification made to its template language.			
Application includes all required content of the online application.			
Application requests State contribution of no more than \$50,000.			
Up to 75.0% State cost-share assistance:			
<i>This project shall not be awarded if:</i>			
(1) purchase price >\$0, or			
(2) >75.0% of total project costs are shown to be paid by the requested State award.			
Application contains no ineligible project cost.			

**APPENDIX A-5 (SAMPLE ILLUSTRATION): Project Eligibility Checklist  
 "Transaction Costs for Donated Agricultural Conservation Easements-Western Region"**

**FOR NYSDAM USE ONLY**

**Project Eligibility Criteria Checklist for Round 15-B FPIG-RFA  
 Transaction Costs for Donated Agricultural Conservation Easements - Western Region**

		RESULT	
		PASS	FAIL
Size of Option Agreement Project = If <54 acres, this project shall not be awarded.	<input style="width: 50px;" type="text" value="0.0000"/> acres		<input style="width: 100%; height: 15px;" type="checkbox"/>
Extent of Active Agricultural Production = If <68%, this project shall not be awarded.	<input style="width: 50px;" type="text" value="0.0"/> acres	#DIV/0!	<input style="width: 100%; height: 15px;" type="checkbox"/>
Extent of Productive Soils = Extent of Prime Soils (NOT "Prime if drained") Extent of Soils of Statewide Importance (NOT "Prime" or "Prime if drained" or "Unique") If sum <1%, this project shall not be awarded.	<input style="width: 50px;" type="text" value="0.0"/> acres <input style="width: 50px;" type="text" value="0.0"/> acres	#DIV/0!	<input style="width: 100%; height: 15px;" type="checkbox"/>
Site Plan for Option Agreement Project If site plan is not fully consistent with Department guidance, this project shall not be awarded.			<input style="width: 100%; height: 15px;" type="checkbox"/>
Conservation Easement for Option Agreement Project Select ONE: <input style="width: 50px;" type="checkbox"/> Department Model Agricultural Conservation Easement <input style="width: 50px;" type="checkbox"/> Applicant Easement containing Department-required provisions This project shall not be awarded if: (1) conservation easement contains any reference to §247 of General Municipal Law as authority to acquire conservation easements, or (2) conservation easement contains any unreasonably restrictive provision, or (3) conservation easement has omitted any Department-required provision, or (4) (if applicable) Department model easement has had any modification made to its template language.			<input style="width: 100%; height: 15px;" type="checkbox"/>  <input style="width: 100%; height: 15px;" type="checkbox"/> <input style="width: 100%; height: 15px;" type="checkbox"/> <input style="width: 100%; height: 15px;" type="checkbox"/>
Application includes all required content of the online application.			<input style="width: 100%; height: 15px;" type="checkbox"/>
Application requests State contribution of no more than \$50,000.			<input style="width: 100%; height: 15px;" type="checkbox"/>
Up to 75.0% State cost-share assistance: This project shall not be awarded if: (1) purchase price >\$0, or (2) >75.0% of total project costs are shown to be paid by the requested State award.			<input style="width: 100%; height: 15px;" type="checkbox"/>  <input style="width: 100%; height: 15px;" type="checkbox"/> <input style="width: 100%; height: 15px;" type="checkbox"/>
Application contains no ineligible project cost.			<input style="width: 100%; height: 15px;" type="checkbox"/>

