Tennessee Department of Agriculture-Land and Water Stewardship Section

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

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

TDEC’s Online Water Resources Data Viewer:

http://tdeonline.tn.gov/dwr/ ,

and/or TDEC’s Final 2018 List of Impaired Waters:

https://www.tn.gov/environment/program-areas/wr-water-resources/water-quality/water-quality-reports---publications.html

(Select Final 2018 List)

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

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

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

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

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

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

V. Guidance for BMP Implementation: Certain BMPs will be eligible to receive incentive payments through TDA’s ARCF in Fiscal Year 2019. The funds will be administered locally through the Soil Conservation District Board of Supervisors in each county and with other partners, with the concurrence of TDA’s Watershed Coordinators, as outlined in this Guidance. Technical assistance will be provided by either the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) or District technicians. Specifications for all BMPs will be in accordance with the NRCS Field Office Technical Guide. Conservation Plans will be developed by the NRCS District Conservationists or the District Technicians and will be strictly adhered to for the purpose of establishing eligibility for incentive payments. Variances from NRCS plans and specifications will be considered on a case-by-case basis. A written request to TDA shall be required for all variance requests. A determination will be made in writing after consultation with TDA staff, the cooperator, and the members of the local partnership. Each cooperator is required to sign the Application and Agreement for Incentive payment Assistance Form, with the “Project Estimate” and the “Maximum Incentive Payment Amount” filled in. TDA will not reimburse any project that does not have this completed prior to starting the project. Only the input rates specified in the Conservation Plan will be eligible to receive incentive payment funding.

Except as explicitly provided in this Guidance, equipment and labor costs on projects such as seedbed preparation, tractor usage, mulching, etc., supplied personally by the Cooperator/landowner or his immediate family, will not be eligible for incentive payment. Farm employees (other than the cooperator’s immediate family) and contracted labor (for example, rock haulers, earthwork companies, day laborers, etc.) are eligible for reimbursement and labor rates must be consistent with competitive local labor rates. Bills for labor will be evaluated by TDA Watershed Coordinators as to appropriate work performed and the reasonableness and practicality of time claimed for that work. TDA reserves the right to reduce any invoices for labor
that exceed the local labor rates. Specialized equipment costs will be eligible for reimbursement, such as no-till drills, spriggers, bulldozers, backhoes, etc., and will be evaluated on a case-by-case basis.

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

BMPs installed in watersheds that are listed as impaired for agriculture on the Proposed Final 2018 List of Impaired and Threatened Waters in Tennessee or TDEC’s Online Assessment Tool, (see links in Section II, page 1), are eligible for an incentive payment of up to 85% of the actual cost of the practice, or the NRCS Project Estimate, whichever is less. The incentive payment for BMPs in all other watersheds is up to 75% of the actual cost of the practice, or the NRCS Project Estimate, whichever is less. The SCD Board of Supervisors may elect to set a lesser percent for incentive payments or use another payment system such as a flat rate. For SCD Boards who choose to provide a flat rate incentive payment, the reimbursement made to the cooperator should be 75% (85%) of the total project cost as applicable, or the established flat rate, whichever is less. Close attention should be given to the specific BMPs for which incentive payment funding is requested. Districts that choose to provide incentive payments based on a flat rate should evaluate the established rate in light of increasing costs and technical assistance workload concerns. Planned conservation systems that will result in a high degree of water quality improvement should not be under-funded to the extent that they are not implemented.

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

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

- Date of Purchase
- Name of Business/Contractor, with address and phone number
- Itemized description of the amounts for materials and labor
- Amount of purchase or invoice
- Form of payment (check, credit card, charged to account)
Invoices from contractors for BMP installations shall be paid by check, cashier’s check or credit card. Cash payments shall be verified by signature of contractor. The cooperator may give the SCD the authority to assign payment directly to the contractor.

VII. BMP Specifics. Consistent with established TDA policy, certain BMPs will be eligible for incentive payments without the need for a preliminary site visit from the Watershed Coordinator to determine eligibility. The following is a list of these:

- **Riparian Buffers/ Riparian Filter Strips**

- **Cropland Conversion**: Seeding will be funded for the establishment of a permanent vegetative cover to be used for pasture or hay land. **SOIL TESTING IS REQUIRED. SOIL TESTS SHALL CONFORM TO THE METHODOLOGIES USED BY THE UNIVERSITY OF TENNESSEE SOIL TESTING LAB. REIMBURSEMENT FOR LIME AND FERTILIZER WILL BE BASED SOLELY ON THE UT INSTITUTE OF AGRICULTURE RECOMMENDATIONS FOR LIME AND FERTILIZER APPLICATION.** Eligible seeding rates and dates are those specified on the NRCS Conservation Plan or in accordance with the University of Tennessee Publication PB 378. Local SCD Boards, with the concurrence of the TDA Watershed Coordinator and the NRCS District Conservationist, have the option to extend seeding dates in the event that weather conditions prevent adherence to specified dates. Companion crop seeds (e.g. wheat) will not be eligible for incentive payment. Maintenance for a minimum of five years will be required on all permanent vegetative covers.

- **Diversions**

- **Grade Stabilization Structures**

- **Grassed Waterways**

- **Sediment Control Basins**: Emphasis should be placed on this practice as a component of a larger field system for erosion control.

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

- **Animal Waste Systems, Including Poultry Litter Storage Buildings, Composters and Incinerators:** The incentive payments for these projects shall not exceed 75% of actual costs, with the maximum payment to be determined by fund availability. TDA Watershed Coordinators will evaluate requests for components of animal waste systems on small farms on a case-by-case basis. Eligible poultry producers are those that were in operation prior to May 1, 1999.

- **Cover Crops:** Cover crops shall be aerially seeded or drilled into existing residue. Incentive payments for cover crops shall not exceed 75% of the project cost (including specialized equipment costs). Cooperators sowing cover crops will be eligible to receive $25 per acre for planting two or more species (of their own choosing), or $35 per acre for planting an official NRCS “soil health mix”. They will be paid an incentive of the appropriate rate above or 75% of their total bills, whichever is less. Harvesting, haying or grazing will be allowed on custom-mixed cover crop practices, after April 1st. Acreage sowed with an official NRCS “soil health mix” must follow NRCS specifications as it pertains to harvesting and/or grazing the cover crop. Seeding rates and dates for custom-mixed cover crops can be either that specified in the NRCS Conservation Plan or in accordance with the University of Tennessee Publication PB 378. Seeding rates and dates for official NRCS “soil health mixes” must adhere to NRCS specifications.

- **Critical Area Treatment**

- **Heavy Use Areas**

- **Livestock Exclusion Systems:** The purpose of this practice is to control access of livestock to waters of the state. Components may include alternative watering sources, stream crossings, limited stream or pond access, streambank stabilization and/or restoration, and fencing. Livestock must be present on the farm prior to installation of these practices, or to qualify for rotational grazing cost-share (see Rotational Grazing System below for specifics and for fencing incentive payment rates).

- **Ponds, Wells, and Spring Developments:** Ponds, wells, or spring developments deemed eligible for funding must be a component of a livestock exclusion system or a rotational grazing system, consistent with the Conservation Plan. Incentive payments for ponds, wells, utility taps, or spring developments shall not exceed 75% of the establishment cost, or $2,500, whichever is less. Well pumps will be cost shared separately, with a payment limitation of 75% of the pump cost or $2,000, whichever is less. Providing power to the well is ineligible for incentive payment reimbursement.

- **Rotational (Prescribed) Grazing Systems:** Incentive payment for fencing for rotational grazing will be limited to cross-fencing of existing fields. Property boundary fencing is not eligible for incentive payment. The number of paddocks and watering facilities will be determined by the TDA Watershed Coordinator on a case-by-case basis. The incentive payment rate for all fencing practices will be 75% of material and labor costs, with a cap on the labor reimbursement of $0.20 per strand-foot. The Cooperator will be
reimbursed either the amount based on the above limits, or the calculated estimate in the Agreement, whichever is less. The cooperator’s labor is eligible for reimbursement, not to exceed the stipulated cap. Itemized receipts are required to receive reimbursement for all incurred costs (see Section VI above).

- **Streambank Stabilization and/or Restoration** (other than Livestock Exclusion)
- **Watering Tanks:** All watering tanks must be installed on a heavy use area in order to be approved for incentive payment.

If a BMP is not listed on either of the above lists, then it will require a site visit prior to approval. The need for the practice must be determined by the TDA Watershed Coordinator in consultation with the TDA-LWSS managers, NRCS District Conservationist, district technicians, and approved by the SCD Board.

**VIII. Information and Education (I&E) Projects:** Agricultural projects that are directed toward landowners, producers and managers, such as field days, BMP demonstrations, seminars, informational material, and training/workshop events will be eligible, pending approval and funding availability. Each funded project shall include a means of testing the success of the educational activity, such as an evaluation form, survey, etc. The evaluations shall be submitted with the reimbursement request. Justification must be made for events with cost requests exceeding $2,500.00. Approval must be received before incurring costs associated with the activity. Requests for promotional items will be considered on a case-by-case basis, and must be clearly identified in the funding request.

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

**X. Requirements for “Contribution Agreement” Technicians:** Funding for 30 Contribution Agreement positions will be provided again this fiscal year. The NRCS has entered an agreement with TDA, so both the federal and the state portions of the contribution agreement compensation will come to the District through the TDA grant. The SCD will report to TDA the name and contact information for the employee and the status of conservation planning and/or engineering job approval authority certifications earned. Should the employee vacate the position for any reason, the SCD will promptly notify TDA. TDA personnel will be given the
opportunity to review the qualifications of applicants and give appropriate feedback prior to
selection by the Board. TDA will also be notified of the start date of all new technicians.

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

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

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

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

For technical assistance by an employee with NRCS Engineering Job Approval Authority, or
who possesses commensurate training and experience to perform the field work necessary for
the design and layout of conservation practices, the hourly rate will be capped at $25 per hour.
For technical assistance by an employee that has or is working to obtain Conservation Planning
Certification or that performs tasks that are more administrative in nature, the hourly rate will be
capped at $15 per hour. In both cases, as with the contribution agreement employees, the
reimbursement procedures currently in place will remain unchanged. Hours of technical
assistance provided on projects should be reasonable, and documentation should be provided
by the SCD to TDA at the time of reimbursement to justify unusual circumstances.

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

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

Also, this year TDA will require all SCD Supervisors to sign the Conflict of Interest Statements
and to renew the adoption of the standard Conflict of Interest Policy, with copies of the signed
policy and the individual statements submitted to TDA with the application for FY 2020 funding.