

Tennessee Department of Agriculture-Land and Water Stewardship Section

NOTICE: TDA is requiring 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 2021 funding.

1. 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 a partnership with the Soil Conservation Districts (SCDs) for the installation of Best Management Practices (BMPs). SCDs have also received grants for specialized equipment from the ARCF, as well as funds for targeted educational projects. Other qualifying entities may also be awarded grants to fulfill the purposes of the ARCF. It is essential that the benchmark of program effectiveness be **measurable water quality improvements.** To this end, we strongly recommend the adoption of the following procedures by ARCF applicants.

2. Watershed Evaluations: All SCDs that apply for funding 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://tdeconline.tn.gov/dwr/> ,

and/or TDEC's Draft 2020 List of Impaired Waters:

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

(Select Draft 2020 List of Impaired Waters)

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/or District partners 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.

3. 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. List all watersheds with streams impaired by Agriculture in the county.
2. Select a watershed, no larger than a twelve-digit Hydrologic Unit area.
3. Evaluate the watershed, identifying all BMPs that are needed to stop active erosion or the direct transport of pollutants to the state’s waters,
4. Attempt to obtain 100% landowner participation in the watershed, through one-on-one meetings, phone calls, site visits, or educational forums, etc.,
5. Apply for funding from TDA.
6. 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.

4. 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.

5. Guidance for BMP Implementation: BMPs that address an existing resource concern and will improve the water quality of Tennessee will be eligible to receive incentive payments through TDA’s ARCF. 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. **Cooperators must make application for all BMPs and be approved for funding prior to implementing the practice(s).** 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 generally 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 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, and a determination will be made by TDA 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 “Total Estimated Incentive” filled in. TDA will not reimburse any project that does not have this form completed prior to starting the project. It is a requirement of TDA that a copy of the completed Application and Agreement Form be provided to the cooperator prior to when the cooperator is given approval to proceed, along with written information on certain BMP funding limits outlined in this Guidance that may be applicable to the BMPs planned for the cooperator’s project. Only the input rates specified in the Conservation Plan will be eligible to receive incentive payment funding. The intent of these requirements is to provide as much clarity to the cooperator as possible about the source of funding and the basis for the incentive payment the cooperator will receive.

Except as explicitly provided in this Guidance (see section on Fencing), 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 the work. **TDA reserves the right to reduce any invoices for labor that exceed the local labor rates.** If a cooperator hires a contractor that uses specialized equipment, we will pay a percentage of the contractor's fees. If a cooperator rents a track hoe and operates the equipment himself, we will pay a percentage of the rental rate and fuel costs. If the cooperator owns his own specialized equipment, we will pay a reasonable rate for the cooperator's time and fuel costs for equipment use.

The life span of all practices shall conform to NRCS guidelines, except for the cropland conversion practice (512a), which is 5 years. 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. The FSA Limited Power of Attorney Form 211 is acceptable to use. 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 on sites that drain into a waterbody impaired by agriculture as listed on the Proposed Final 2020 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; subject to specific practice limits and provisions included in the Guidance, or the NRCS Total Estimated Incentive, **whichever is less**. The incentive payment for BMPs in all other watersheds is **up to 75%** of the actual cost of the practice, subject to specific practice limits and provisions included in the Guidance, or the NRCS Total Estimated Incentive, **whichever is less**. However, the SCD Board of Supervisors may elect to set a per cooperator annual funding cap, or a flat rate lesser percent for incentive payments. For SCD Boards who choose to provide a flat rate incentive payment, the reimbursement made to the cooperator should be the NRCS Total Estimated Incentive, or the established flat rate, **whichever is less**. Also, for SCD Boards that choose a lesser percentage rate, additional payments to cooperators at year-end to increase the amount of incentives given will not be allowed. **TDA reserves the right to make adjustments to the invoices submitted by the Cooperator so the incentive payment provided is based on the actual quantities of materials and labor used for the completed work.** 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.

6. Invoices/ Receipts: Cooperators must provide proper receipts and/or invoices for 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

7. BMP Specifics.

Consistent with established TDA practice, 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 Forest Buffer (Practice Number 391)**
- **Riparian Herbaceous Cover (Practice Number 390)**
- **Cropland Conversion (Practice Number 512A):** Incentive payments for seeding will be provided for the establishment of a permanent vegetative cover to be used for pasture or hay land. In order to be eligible, the land being converted to permanent cover must have an established cropping history of corn, soybeans, cotton, etc., (not hay or pasture) for at least one crop year immediately prior in order to be eligible. Documentation from USDA-Farm Services Agency, or visual evaluation of the site by the TDA Watershed Coordinator will establish the cropping history for the previous crop year. Unless required by the Conservation Plan, there is no requirement in this guidance to run the RUSLE2 soil loss equation on sites where this practice is to be applied. **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. **The seeding rates and, if applicable, lime and fertilizer rates eligible for incentive payment reimbursement will be provided to the cooperator in writing prior to planting.** 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 (Practice Number 362)**
- **Grade Stabilization Structures (Practice Number 410)**
- **Grassed Waterways (Practice Number 412)**

- **Water and Sediment Control Basins (Practice Number 638):** Emphasis should be placed on this practice as a component of a larger field system for erosion control.
- **Terraces (Practice Number 600)**

Consistent with established TDA practice, certain BMPs will be eligible for incentive payment **only after** a site visit has been made by the TDA Watershed Coordinator, prior to the cooperator receiving approval for the project to proceed, to determine eligibility. The following is a list of these BMPs:

- **Poultry Litter Storage (Waste Storage Facility) (Practice Number 313), Composting Facility (Practice Number 317) and Incinerators (Animal Mortality Facility) (Practice Number 316):** These practices are eligible for reimbursement, subject to fund availability. TDA Watershed Coordinators will evaluate requests for components on a case-by-case basis. Eligible poultry producers are those that have been in operation for at least ten years.
- **Animal Waste Systems.** These projects are eligible for reimbursement, subject to fund availability. TDA funding would be limited to practices that improve manure handling and storage, practices such as Roof Runoff Structures, (Practice Number 558), Trails and Walkways, (Practice Number 575), Waste Storage Facility (Practice Number 313), Pumping Plant (Practice Number 533) and other practices that aid in improving the quality or lessening the quantity of agricultural stormwater runoff from the facility to state waters.
- **Cover Crops (Practice Number 340) NOTE FUNDING LIMITS:** Cover crops shall be aerially seeded or drilled into existing residue. Cooperators planting cover crops will be eligible to receive \$25 per acre for planting two or more species per the Conservation Plan 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% (85% if site drains into a waterbody impaired by agriculture) of the actual cost of the project, **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. **The seeding rates eligible for incentive payment reimbursement and the funding limits established will be provided to the cooperator in writing prior to planting.** 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.
- **Critical Area Planting (Practice Number 342)**
- **Heavy Use Areas (Practice Number 561). The NRCS HUA worksheet must be completed for all planned HUAs.** The incentive payments for heavy use areas will be based on the crushed stone rate for the practice. Incentive payments for concrete will only be paid if the design engineer documents the need for concrete in writing.

- **Fencing Practices (Practice Number 382) NOTE FUNDING LIMITS**

For all fencing practices, livestock must be present on the farm prior to installation of the practices. The incentive payment rate for all fencing practices will be 75% (85% if site drains into a waterbody impaired by agriculture) of materials, with a cap on the labor reimbursement of \$0.25 per strand-foot. The type of fence installed will be stipulated in the Conservation Plan. Woven wire, if specified by the Conservation Plan, will be considered for the labor portion of the incentive payment to be equivalent to a four-strand fence. **The funding limits established for fencing will be provided to the cooperator in writing prior to the cooperator being given approval to proceed.** The cooperator's labor is eligible for reimbursement, not to exceed the stipulated cap. Itemized receipts are required, showing the breakdown for materials and labor to receive reimbursement for all incurred costs. The Cooperator will be reimbursed either the amount based on the above limits, or the Total Estimated Incentive listed in the Agreement, **whichever is less.**

Fencing for Livestock Exclusion (382A): The purpose of this practice is to control access of livestock to waters of the state. Components may include Watering Facilities (Practice Number 614), and Stream Crossing (Practice Number 578), etc.

Fencing (382D) for Prescribed Grazing (Practice Number 528): Incentive payment for fencing for rotational grazing will be limited to cross-fencing of existing fields. The number of paddocks and the number and distance between the watering facilities installed will be consistent with the Conservation Plan, unless a variance is requested in writing by the cooperator. Variances will be considered by TDA on a case-by-case basis, from the perspective of maximizing the efficiency and function of the prescribed grazing system to positively affect state waters.

Temporary Fencing (Practice Number 382T). Temporary fencing systems will be eligible for funding, only within an established and functioning prescribed grazing system. Reimbursement will be made at 50% of the actual cost of the materials needed, up to a maximum of \$500, consistent with the Conservation Plan, and will have a life expectancy of five years.

Ponds (Practice Number 378), Water Wells (Practice Number 642), NOTE FUNDING LIMITS Spring Developments (Practice Number 574), Watering Facilities (Practice Number 614), Pumping Plant (Practice Number 533) NOTE FUNDING LIMITS, Utility Water Taps NOTE FUNDING LIMITS:

TDA will provide incentive payments to repair spillways on existing ponds, provided the pond is not under an existing operation and maintenance agreement with USDA, and if there is a legitimate resource concern pertaining to water quality. Ponds, water wells, spring developments, watering facilities, pumping plants, and utility water taps deemed eligible for funding must be a component of a livestock exclusion system or a prescribed grazing system, consistent with the Conservation Plan. All watering facilities must be installed on a heavy use area in order to be approved for incentive payment. Practices eligible for incentive payment are those intended to serve an exclusive agricultural purpose. No incentive payments will be given for new practices serving a dual purpose; such as a home or other non-agricultural use. Incentive payments for ponds, wells, or spring developments shall not exceed 75% (85% if site drains into a waterbody impaired by agriculture) of the establishment cost, or \$2,500, whichever is less. **The funding limits established for wells, pumping plants, and water taps will be provided to the**

cooperator in writing prior to the cooperator being given approval to proceed. For wells, the incentive payment includes the cost of drilling a successful well, and the cost of the well casing for the successful well. Incentive payments for utility taps shall be 75% (85% if site drains into a waterbody impaired by agriculture) of the actual cost, or \$1,000.00, whichever is less. Pumping plants will be considered for incentive payment separately, with a payment limitation of 75% (85% if site drains into a waterbody impaired by agriculture) of the pump cost or \$2,000, whichever is less. Incentive payments for a well and a pumping plant are not to be considered additive.

- **Livestock Pipeline (Practice Number 516):** Pipelines from wells, utility water taps, or stream sources providing water to livestock are eligible for incentive payments. Consistent with the guidance under Watering Facilities above, the pipelines eligible for funding are those that are intended to serve an exclusive agricultural purpose. No incentive payments will be given for a new pipeline serving a dual purpose; such as a home or other non-agricultural use. Only the portion serving the agricultural purpose will be eligible for incentive payment funding.
- **Streambank and Shoreline Protection (Practice Number 580):** Incentive payments for this practice are limited to sites that border on agricultural lands.

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

For clarity, the following are some common BMPs that are ineligible for ARCF incentive payments.

- **Any proposed practice where a water quality resource concern is not present.**
- **Fencing of farm ponds that are not waters of the state as a stand-alone practice.**
- **Fencing to exclude livestock from wooded areas, where state waters are not being threatened.**
- **Property boundary or Perimeter Fencing**
- **Tile Drainage Systems**

8. 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 project proposed shall have a clear purpose of promoting water quality improvements from conservation practice installation. **Activities focused on production agriculture and wildlife are not eligible for funding.** Each project request shall include a detailed estimate for the requested amount, itemizing what the funds will be used for. 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. 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 all specific items to be purchased must be clearly identified in the funding request.

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

10. 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.

11. 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.

12. Conflict of Interest: (See requirement on Page 1 of this Guidance Document). 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.