

## **RULES/GUIDELINES SUMMARY**

Before beginning each program year your district board should review the Conservation Cost-Share Program Rules and current Program Guidelines. The Program Rules can be found in Section 2 of the Cost-Share Program Handbook. The current Program Guidelines can be found in Section 1 of the Cost-Share Program Handbook.

### **CONDUCTING YOUR DEVELOPMENT MEETING**

The district board must conduct a local Program development meeting to identify and prioritize problems affecting the district's renewable natural resources. This action must be taken once each calendar year. The Commission recommends that your development meeting be scheduled sometime between April and September each year. This can be accomplished during a regularly scheduled board meeting or in conjunction with a NRCS local work group meeting. This development meeting must be advertised locally to allow local interested parties to participate in the discussion. The meeting can be advertised through a number of different methods. Such as a notice in the paper, letter to district cooperators, article in your newsletter, or flyers distributed through town. During the discussion please keep in mind that the purpose of the Program is to reduce soil erosion and improve water quality. After identifying and prioritizing problems, submit suggested practices to the Commission that will be the most beneficial to local applicants. From the suggested practices the Commission will select and approve the practices to be offered during the program year.

### **CONSERVATION DISTRICT PARTICIPATION**

The Program is a voluntary program. Conservation districts are not required to participate. Board action is required each program year to allow your district to participate in the Program. This action should be taken after your district has reviewed current Program Guidelines.

### **CONSERVATION DISTRICT BOARD MEMBERS PARTICIPATION**

On November 1, 1999 conservation district directors became eligible to participate in the Program. Individual directors should give careful consideration to public perception when making their decision to participate in the Program. Board action is required each program year to allow district board members to make application in the Program. Any board member making application must immediately remove himself from any and all discussions and votes on Program items and the guidelines below must be followed.

- Only two conservation district board members in any single conservation district shall participate in the Program in any single program year.
- Individual district board members applying cannot discuss any element of the Program including but not limited to practices, rates, average costs, selection criteria, application approval/disapprovals, cost-share payments, and extensions.
- Individual district board members applying for the Program must abstain from voting on all elements of the Program.
- Individual district board members cannot use their position as a conservation district board member to improve or elevate their individual chances of becoming a successful applicant.

A District Director Participation Form can be found in Section 5 of the Cost-Share Program Handbook. A completed copy of this form must be on file in the Commission office each program year.

## **AUTHORIZED DISTRICT REPRESENTATIVE**

The district board must designate an authorized district representative each program year. This person can sign all forms. The authorized district representative must be a district board member. Board members making application in the Program cannot serve as the authorized district representative. It cannot be a district employee. Board action is required each program year to designate the authorized district representative.

## **DESIGNATED TECHNICAL REPRESENTATIVE**

The district board must designate a technical representative each program year. This person will assist in developing conservation plans and determining the need for practices. The representative will also be responsible for design and layout of approved practices, determining compliance with approved standards and specifications, and certifying practice quantities and completion of practices. Board action is required each program year to designate the technical representative.

## **CONSERVATION PRACTICES**

District boards can select only practices from the Commission's approved guidelines that will be offered locally. Board action is required each program year to approve practices for your district's practice list. The approved conservation practice list can be found in Section 1 of the Cost-Share Program Handbook.

## **CONSERVATION PRACTICE SPECIAL REQUESTS**

If the district board wishes to offer a practice that does not appear in the Commission's approved guidelines they must submit a special request for the Commission's consideration. All practice special requests must be in writing and contain supporting documentation. All practice special requests require approval by the Commission prior to advertising your Program locally. Approval of practice special requests will be in writing from the Commission.

## **COST-SHARE AVERAGE COST**

The district board must establish cost-share average costs using the Commission's approved guidelines. Based on those average costs the district board must establish local cost-share average costs (unit costs) for each conservation practice that they intend to offer locally. If the component is not in the Commission's approved guidelines your district cannot cost-share on that component. The local average costs are a component of calculating the cost-share payment. Board action is required to approve the average costs from the Commission's approved guidelines.

## **COST-SHARE AVERAGE COST VARIANCE**

An average cost variance from the Commission's approved guidelines can be requested by the district board. Board action is required to make this request. In order for a variance to be considered the request must be in writing and accompanied by supporting data compiled by the district. The average cost variance must be approved by the Commission prior to approving applications. The approved Program average costs can be found in Section 1 of the Cost-Share Program Handbook. A Cost-Share Average Cost Variance Form can be found in Section 5 of the Cost-Share Program Handbook.

## **COST-SHARE RATE**

The district board must establish a cost-share rate from the Commission approved guidelines. The cost-share rate must be expressed as a percentage and cannot exceed the limit set in the guidelines. The cost-share rate is a component of calculating the cost-share payment. The district board may set a different cost-share rate for each conservation practice to be offered locally.

## **MAXIMUM COST-SHARE PAYMENT AMOUNT**

The district board must establish a maximum cost-share payment amount (the not to exceed amount) from the Commission approved guidelines. The maximum payment amount is per participant, per program year. The maximum payment amount is a component of calculating the cost-share payment. Program guidelines establish the maximum cost-share payment amount. Your district board must establish a maximum cost-share payment amount that does not exceed the guidelines established maximum.

## **SELECTION CRITERIA**

Applicants for the Program must be a district cooperator with a conservation plan. The district board must establish selection criteria that will be used to evaluate and approve applications. The Commission does not recommend a first come first served system. Board action is required to approve selection criteria.

## **APPLICATION PERIOD**

The district board must establish an application period. The Commission recommends a 2-3 week application period. Your district can have multiple application periods during the allocation period for a program year. Board action is required to establish an application period. The district board must establish specific dates and places to advertise your Program locally. Any costs associated with the advertisement of your local Program can be reimbursed from your other operating funds. An example Program announcement flyer can be found in Section 5 of the Cost-Share Program Handbook.

## **TAKING APPLICATIONS**

If an applicant does not have an approved conservation plan and a cooperator agreement at the time of application they should be advised that both documents will be needed before a cost-share payment can be received. Should the applicant be selected by the district board for cost-share assistance a conservation plan should be initiated. It is critical that the district and district conservationist work together to ensure that the plan be completed and approved before a cost-share claim is submitted. Instead of a total farm plan, the Commission is requiring an approved plan only on the tract of land where the practice is to be constructed.

Applicants can apply for multiple practices in the same program year and on the same application form. The participant cannot receive a combined cost-share payment amount that exceeds the district board's established maximum cost-share payment amount allowed for each participant. If it is determined that the cost-share applicant is not the owner of the land where the conservation practice is to be constructed a Consent Form must be completed and attached to the application prior to the district board evaluating the application for approval. The Consent Form is not effective until signed by both parties, the land owner and applicant. An Application and Consent Form can be found in Section 5 of the Cost-Share Program Handbook.

## **APPROVING APPLICANTS**

The district board must use their established selection criteria when approving Program applicants. Approved applicants must be notified, in writing, within 10 days after district board action. Applicants should be instructed to contact the district to set up an appointment to sign a Performance Agreement, W9 Form and schedule the designated technical representative to design and layout the approved conservation practice. The Commission recommends 7-10 working days from the date of notification to allow the applicant to schedule an appointment. An example notification letter can be found in Section 5 of the Cost-Share Program Handbook. A Performance Agreement and W9 Form can be found in Section 5 of the Cost-Share Program Handbook.

Applicants denied for any reason must be notified, in writing, within 10 days of the district board decision. The district board must give reason(s) for the denial and advise the applicant of their right to appeal and the procedures necessary to exercise those appeal rights. The Commission suggests that the district board allow 15 days from the date of notification to receive an appeal from the unsuccessful applicant. An example notification letter for unapproved applicants can be found in Section 5 of the Cost-Share Program Handbook

If your district has more qualified applicants than funds, the district may choose to approve those applicants meeting your district's established selection criteria on the condition that funding becomes available. Performance Agreements for approved alternates must be signed and dated by both the alternate and the district on or before the allocation period ends. Work cannot begin until notified by the district that funds are available. All approved alternates must understand that there is no guarantee that funds will become available during the program year. An example notification letter for approved alternates can be found in Section 5 of the Cost-Share Program Handbook.

## **ESTABLISHING COMPLETION DATES**

Your district board is required to establish a completion date for each approved participant. The completion date cannot exceed the program year ending date established in the Commission's approved guidelines. If your district chooses to use a number of days instead of a specific date for the completion date you must also establish the date that the number of days will begin. Board action is required to establish completion dates.

## **TIME EXTENSIONS**

Your district board must establish a policy for granting completion date time extensions. All time extension requests must be in writing. All time extensions require board action. Time extensions cannot exceed the program year ending date established in the Commission's approved guidelines.

## **PERFORMANCE AGREEMENTS**

Each successful applicant is required to sign a Performance Agreement. A Performance Agreement is a written contract between the participant and conservation district wherein the participant agrees to perform conservation practices for which allocated cost-share funds are being paid. If multiple practices were approved for a single participant and those practices have different maximum cost-share payment amounts, cost-share rates, and completion dates the Performance Agreement must reflect those amounts, rates, and dates.

The Performance Agreement is not effective until signed and dated by both parties and a Form W-9 is attached. The name of the participant, conservation practice, maximum amount, cost-share rate, and completion date for each approved participant must appear in the board meeting minutes. Work cannot begin until an effective agreement is in place. An amendment to a Performance Agreement requires board action. A Performance Agreement can be found in Section 5 of the Cost-Share Program Handbook.

## **MAINTENANCE AGREEMENTS**

Each participant is required to sign a Maintenance Agreement. A Maintenance Agreement is a written agreement between the participant and conservation district wherein the participant agrees to maintain the approved conservation practice for the expected life span of the practice as established by the district board. If multiple practices were approved for a single participant and those practices have different life spans the participant is required to sign a separate Maintenance Agreement for each conservation practice. Completion of the Maintenance Agreement and signature of the participant are required prior to the disbursement of the cost-share payment. A Maintenance Agreement can be found in Section 5 of the Cost-Share Program Handbook.

## **APPEALS PROCESS**

If an appeal is filed, the district board has 30 days in which to make a decision and notify the applicant in writing regarding the decision on the appeal. It is suggested that the district board hear an appeal at its next regularly scheduled board meeting. These appeals must be listed on the agenda and heard in open session; no appeals shall be heard or discussed in executive session. The district board needs to give the applicant an opportunity to be heard, that is, what is the reason for contesting the decision. If the district board agrees with the applicant, then the district board can reverse its earlier decision and approve the application. However, if the district board feels that its original denial of the application was justified, the district board is certainly entitled to stand by its original ruling. The district board must then notify the applicant, in writing, that the applicant can appeal the decision to the Commission.

If the applicant desires to appeal the district board's decision they must make a written appeal to the Commission within 30 days of the district board's decision. The district will need to send a copy of the case file, the criteria for selecting applicants, and the reasons for the district board's denial of the application to the Commission.

## **VIOLATIONS OF AGREEMENTS**

If a violation of a Performance or Maintenance Agreement is alleged a representative of the conservation district and/or a representative of the Commission will investigate. If a violation has occurred the conservation district shall give the participant 21 days to correct the violation. If the participant does not correct the violation the conservation district will demand repayment of the cost-share payment. The participant shall not be given more than 45 days to make repayment. The participant can contest the decision and request a formal hearing to reconsider the demand of repayment.

If a formal hearing is requested, the Commission suggests that the district board conduct a formal hearing at its next regularly scheduled board meeting. The formal hearing must be listed on the agenda and heard in open session; no formal hearing shall be heard or discussed in executive session. The district board needs to give the participant an opportunity to be heard, that is, what is the reason for contesting the decision. If the district board agrees with the participant, then the

district board can reverse its earlier decision. However, if the district board feels that its original decision is correct the district can renew the demand for repayment. The district board must then notify the participant, in writing, that he can contest the district board's decision to the Commission.

If the participant desires to contest the district board's decision they must make a written appeal to the Commission within 30 days of the district board's decision. The district will need to send a copy of the case file and the reasons for demanding repayment to the Commission.

## **CANCELLATION OF PERFORMANCE AGREEMENTS**

A Performance Agreement can be canceled in the following ways.

- By notification in writing from the participant.
- By the district board if the conservation practice is not completed as required by the Performance Agreement.
- By the district board if it is discovered that information provided by the participant is false.

The district board in a regularly scheduled board meeting must cancel a Performance Agreement. The participant must be notified in writing when a Performance Agreement has been canceled. The Performance Agreement is effectively canceled on the date of the board meeting. The name of the participant for whom the agreement was canceled must appear in the board meeting minutes.

If a Performance Agreement is canceled and funds are de-obligated during the allocation period then those funds are available for re-obligation by the district board. If a Performance Agreement is canceled and funds are de-obligated after the allocation period has ended then those funds are returned to the Commission and are no longer available to the district board for reobligation.

## **SUBMITTING A COST-SHARE CLAIM**

When the participant submits all invoices to the district for completed practices a cost-share claim must be completed. The district will submit a claim in the district's name. Multiple completed agreements can be submitted on one claim. For each agreement listed on the claim a copy of the following back-up documentation must be submitted with the claim

1. All invoices
2. Performance Agreement
3. Certification of Completion and Acceptance
4. payment calculation sheet
5. Consent (if applicable)

All Cost-Share Program reimbursements will be made to the district by EFT. Once the district has received the cost-share funds they can make payment to the participant with a district check. A Release of Warrant Form must be completed on each payment made by the district. The Commission cannot process cost-share claims received after the program year has ended. A Certificate of Completion and Acceptance Form and Payment Calculation Sheet can be found in Section 5 of the Cost-Share Program Handbook. An example claim can be found in Section 5 of the Cost-Share Program Handbook.

## **CASE FILE**

A case file must be developed for each approved applicant. The case file can be filed in the participant's conservation plan file or filed separately. Documents pertaining to unsuccessful applicants should be retained at least until the end of the program year. Documents pertaining to successful applicants should be retained for at least 3 years after the end of the program year. A Case File Checklist can be found in Section 5 of the Cost-Share Program Handbook.

## **REPORTING AND ACCOUNTING**

The district is required to maintain a report of all approved Performance Agreements. The report should include agreement number, effective date of the Performance Agreement, obligated amount, actual state cost-share payment, and unobligated amount. This form will provide a monthly financial report of the district's allocated cost-share funds.

The report should reflect cumulative amounts from the beginning of the program year to the close of the last business day of each month. A Monthly Report form can be found in Section 5 of the Cost-Share Program Handbook.

Once all effective Performance Agreements have been completed and the participants have received payment a final Monthly Report (there is not a separate form) should be sent to the Commission office. The district does not need to continue sending Monthly Reports once the final report has been reviewed by the Commission.

Districts can request an additional allocation of cost-share funds for a program year by submitting a written request to the Commission office. The request must be made prior to the end of the allocation period.

The district has one year from the end of the allocation period to disburse obligated funds. Any funds obligated during the allocation period but not disbursed within one year after the allocation period will be automatically released to the Commission.