

**CHAPTER 138h. AGRICULTURAL LAND CONSERVATION
ASSISTANCE GRANT PROGRAM**

- Sec.
138h.1. Grant Program objectives.
138h.2. Definitions.
138h.3. Limitations on grants.
138h.4. Uses of grant funds.
138h.5. Eligibility criteria.
138h.6. Applications generally.
138h.7. Filing applications.
138h.8. Review of application by State Board.
138h.9. Notice of disposition of application.
138h.10. Grant agreement.
138h.11. Verification of use.
138h.12. Grant cancellation.
138h.13. Deficits.
138h.14. Records.
138h.15. Final report.

Authority

The provisions of this Chapter 138h issued under sections 7.1 and 7.3 of the act of June 18, 1982 (P. L. 549, No. 159) (3 P. S. §§ 1207.1 and 1207.3), unless otherwise noted.

Source

The provisions of this Chapter 138h adopted November 15, 1996, effective November 16, 1996, 26 Pa.B. 5636, unless otherwise noted.

§ 138h.1. Grant Program objectives.

Through the awarding of grants and the placing of conditions upon how grant funds are to be spent, the Grant Program will fund projects which will increase the protection and preservation of agricultural land within this Commonwealth by encouraging the implementation and effectiveness of county programs in each eligible county.

Source

The provisions of this § 138h.1 amended October 27, 2000, effective October 28, 2000, 30 Pa.B. 5540. Immediately preceding text appears at serial page (222557).

§ 138h.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Agricultural Area Security Law (3 P. S. §§ 901—915).

Applicant—An eligible county acting through and with the approval of its agricultural land preservation board.

Costs incurred—Expenses that are permitted under a grant agreement and that have been paid by a grant recipient in expectation of reimbursement under the grant agreement and this chapter.

County program—A county agricultural land preservation program for the purchase of agricultural conservation easements approved by the State Board under the act.

Department—The Department of Agriculture of the Commonwealth.

Eligible county—A county, not of the first class, whose governing body has passed a resolution forming a county agricultural land preservation board under the law and appointed members to the board by the date of application.

Grant Program—The Agricultural Land Conservation Assistance Grant Program.

Secretary—The Secretary of the Department.

State Board—The State Agricultural Land Preservation Board.

Source

The provisions of this § 138h.2 amended October 27, 2000, effective October 28, 2000, 30 Pa.B. 5540. Immediately preceding text appears at serial pages (222557) to (222558).

§ 138h.3. Limitations on grants.

- (a) The maximum amount of a grant is \$10,000.
- (b) For projects costing less than \$20,000, the maximum grant will be 50% of the project cost.
- (c) A county is not eligible for more than a cumulative total of \$25,000 in grants under the Grant Program.
- (d) The total amount of grant funds which may be awarded will not exceed \$750,000 of the funds deposited into the Agricultural Conservation Easement Purchase Fund under section 7.1(a) of the act of June 18, 1982 (P. L. 549, No. 159) (3 P. S. § 1207.1(a)). The amount of grant funds awarded in any particular year will be determined by the State Board, depending on the availability of the funds.

§ 138h.4. Uses of grant funds.

- (a) *Conformity to application.* Grant funds awarded to an applicant shall be expended solely for specific projects described in the grant application in accordance with the project budget approved by the State Board and shall be expended within the time period specified in the grant agreement.
- (b) *Pennsylvania projects.* Grant funds awarded to an applicant under the Grant Program shall be used only to fund projects within the geographic boundaries of this Commonwealth.
- (c) *Allowable expenditures of grant funds.* Grant funds shall be used for one or more of the following purposes:

(1) To cover costs incurred by an applicant in obtaining a Geographic Information Systems (G15) database. The database shall contain resource data such as: county topographic data, property boundaries, soil boundaries, soil capability classes, soil productivity ratings and relative values for soils.

(2) To cover costs incurred by an applicant to develop and implement agricultural zoning ordinances, including model ordinances for possible adoption by local government units.

(3) To cover costs incurred by an applicant to train staff, contract with consultants, and pay for computer software directly linked to achieving the purposes of paragraphs (1) and (2), or to reaching the objective of a fully approved and functioning county program.

(4) To cover costs up to \$2,000 incurred by an applicant in the purchase of computer hardware directly linked to achieving the purposes of paragraphs (1) and (2).

(d) *Ineligible expenditures.* Grant funds may not be used for the purchase of general-use word processing and spreadsheet software.

(e) *Use of "in-kind" or "like-kind" funding.* The value of in-kind or like-kind contributions shall be considered in calculating an applicant's contribution of matching funds to a project. In-kind or like-kind contributions may be counted toward an applicant's matching contribution. In-kind or like-kind contributions used for this purpose may not exceed \$2,000 or 20% of an applicant's total matching contribution, whichever is less.

Source

The provisions of this § 138h4 amended October 27, 2000, effective October 28, 2000, 30 Pa.B. 5540. Immediately preceding text appears at serial pages (222558) to (222559).

Cross References

This section cited in 7 Pa. Code § 138h.6 (relating to applicability).

§ 138h.5. Eligibility criteria.

(a) *General.* The following general criteria apply to applications for projects:

(1) The Grant Program will not accept applications for the following:

(i) Projects already completed.

(ii) Stages of projects already in progress.

(iii) Stages of projects for which funding has been included in a county appropriation or when other funding has been approved.

(2) Subsequent stages or upgrades may be considered for funding if documentation is provided to the Department to demonstrate that the stage or upgrade was not included in funding plans for earlier stages of the project.

(b) *Specific.* The following specific criteria will be used to evaluate applications for funding consideration:

(1) The acceptability of costs within the proposed budget.

- (2) The availability of funding for the project from a source other than the Commonwealth.
- (3) The extent to which the project contributes to the Commonwealth's goal of preserving agricultural land.
- (4) The geographic scope of the project and the amount of agricultural land which will be affected by the project described in the application.
- (5) The anticipated date of full implementation of a county program.
- (6) The impact the project would have on other county programs.

Source

The provisions of this § 138h.5 amended October 27, 2000, effective October 28, 2000, 30 Pa.B. 5540. Immediately preceding text appears at serial page (222559).

Cross References

This section cited in 7 Pa. Code § 138h.8 (relating to review of application by State Board).

§ 138h.6. Applications generally.

(a) *Application required.* Applicants shall submit a written grant application to the Department through their county agricultural land preservation boards.

(b) *Obtaining an application.* Applications for grants under this chapter shall be made on forms prepared by the Department. The forms will be furnished, upon request, by the Department.

(c) *Authorization.* In addition to the application, applicants shall submit a written resolution passed by the county board authorizing the person submitting the grant application to execute the grant application on behalf of the county board.

(d) *Additional documentation.* The State Board and the Secretary may require an applicant to submit additional documentation to complete or verify the application form. The additional documentation may include a letter, affidavit or other documentation, to:

- (1) Verify that the applicant is an eligible county.
- (2) Verify that grant funds will be used for one or more of the purposes in § 138h.4 (relating to uses of grant funds).
- (3) Confirm the applicant has secured funds from another source for the project for which the grant is requested.

(e) *Request for additional documentation.* If additional documentation is necessary, the State Board or the Secretary will mail a written request for additional documentation to the applicant within 30 days of receipt of the application.

Source

The provisions of this § 138h.6 amended October 27, 2000, effective October 28, 2000, 30 Pa.B. 5540. Immediately preceding text appears at serial pages (222559) to (222560).

§ 138h.7. Filing applications.

(a) *Place and time.* An application for a grant under the Grant Program shall be received by the program administrator at the Department of Agriculture, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110-9408, during the specific 45-day annual application period as advertised in the *Pennsylvania Bulletin*. Applications will not be accepted after 4 p.m. on the last day (day 45) of the application period. The advertisement will be published at least 30 days prior to the commencement of the application period.

(b) *Incomplete or inaccurate applications.* The Department will review each application and any supporting documentation that is received within the 45-day application period. If an application is found to be incomplete or inaccurate, the Department will request additional information and will discontinue further processing of the application if the documentation is not received by the Department within the 15 days from the date of the request or the close of the 45-day application period, whichever is longer.

Source

The provisions of this § 138h.7 amended October 27, 2000, effective October 28, 2000, 30 Pa.B. 5540. Immediately preceding text appears at serial page (222560).

§ 138h.8. Review of application by State Board.

(a) *Transmittal of application to State Board.* When the Department determines a grant application is complete and accurate, it will forward this application, together with supporting documentation submitted therewith, to the State Board for review at its next regularly scheduled meeting.

(b) *Factors.* The State Board will review and evaluate the application and supporting documentation and will consider the factors in § 138h.5 (relating to eligibility criteria) in deciding whether to recommend approval or disapproval of the grant request.

(c) *Decisions.* When the State Board has reviewed the grant application and supporting documentation, it will vote on whether to recommend approval or disapproval of the grant application. The State Board will vote on these projects in accordance with its bylaws. The State Board may also recommend the grant be awarded in an amount less than that requested in the grant application. In addition, the State Board may vote to recommend the imposition of restrictions or special conditions upon the issuance of a grant. If the State Board recommends approval of a particular grant application, the Secretary will execute the grant agreement if funding is available and all other conditions have been met.

Source

The provisions of this § 138h.8 amended October 27, 2000, effective October 28, 2000, 30 Pa.B. 5540. Immediately preceding text appears at serial pages (222560) to (222561).

§ 138h.9. Notice of disposition of application.

The Department will mail to the applicant written notice of the approval or disapproval of a grant application within 30 days of the State Board's decision. This notice will be by regular mail to the address indicated by the applicant on the grant application form.

Source

The provisions of this § 138h.9 amended October 27, 2000, effective October 28, 2000, 30 Pa.B. 5540. Immediately preceding text appears at serial page (222561).

§ 138h.10. Grant agreement.

(a) *General.* After the State Board approves a grant application, and as a precondition to the Department's release of grant funds to a successful applicant, the Department and the applicant shall execute a written grant agreement which describes the terms and conditions subject to which the grant is made. This grant agreement shall contain and conform to the requirements of this chapter and applicable State laws. It shall also contain any special terms and conditions required by the State Board and the Secretary.

(b) *Extension of project completion date.* Although the project completion date set forth in the grant agreement may be extended by mutual written agreement of the Department and the grant recipient, the project completion date will not be extended more than 6 months.

Source

The provisions of this § 138h.10 amended October 27, 2000, effective October 28, 2000, 30 Pa.B. 5540. Immediately preceding text appears at serial page (222561).

§ 138h.11. Verification of use.

(a) *Verification.* Within 3 months of the time period specified in the grant agreement, or the completion of the project, whichever is earlier, the grant recipient shall submit to the Department written receipts accounting for the project costs. If the total of the written receipts demonstrates that some portion of the grant amount was not spent, the grant recipient shall also submit payment in the full amount of this unspent sum to the Department. The repayment shall be credited to the Agricultural Conservation Easement Purchase Fund, and may be used to fund this Grant Program. The Department may also require that additional documentation be submitted by the grant recipient to document the expenditure of grant funds.

(b) *Extension of time.* The 3-month period described in subsection (a) may only be extended by the written permission of the Secretary. An extension will be for a specific period of time.

(c) *Failure to verify use.* If required receipts or documentation are not submitted to the Department as described in subsections (a) and (b), or if the grant funds or a portion thereof are unaccounted for, the Secretary may demand, in writing, the return by the grant recipient of the entire grant sum or a lesser amount, plus appropriate legal interest as prescribed in section 202 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 202). The grant recipient shall repay a sum of grant funds and interest demanded by the Department within 60 days of the mailing of the written demand. The repayment shall be credited to the Agricultural Conservation Easement Purchase Fund, and may be used to fund this Grant Program.

Cross References

This section cited in 7 Pa. Code § 138h.12 (relating to grant cancellation).

§ 138h.12. Grant cancellation.

(a) *Misuse of funds.* A grant may be canceled by the Department if the Secretary determines grant funds are not being spent in accordance with the terms and conditions of the grant agreement. In the event of cancellation, the Department may demand the return of the entire grant sum, or a portion thereof, and the grant recipient shall repay the sum in the manner described in § 138h.11(c) (relating to verification of use).

(b) *Failure to obtain State Board approval of a county program.* If, within 2 calendar years of the date of the first grant agreement to that county, the grant recipient does not have a county program in place, the grant funds provided to the eligible county under this chapter shall be returned to the Department in full as described in § 138h.11(c).

Source

The provisions of this § 138h.12 amended October 27, 2000, effective October 28, 2000, 30 Pa.B. 5540. Immediately preceding text appears at serial page (222562).

§ 138h.13. Deficits.

The Department's financial obligation or liability is limited to the amount of the grant. The Department will not be financially responsible for cost overruns incurred by grant recipients, or any other costs resulting from establishment of a county program.

§ 138h.14. Records.

(a) The grant recipient shall maintain books, records and other evidence pertinent to costs incurred in connection with the project. The books and records shall be maintained according to generally-accepted accounting principles.

(b) Financial records, supporting documents, statistical records and other records pertaining to the grant shall be retained by the grant recipient for 3 years following the date final payment is made. The records and documents shall be available for inspection or audit by the Commonwealth, its agencies and instrumentalities during this time period.

§ 138h.15. Final report.

Within 3 months of the date of completion of the project, the grant recipient shall submit a final report delineating the progress made towards meeting the objectives in the initial grant application.

[Next page is 138i-1.]