



**New York State Department of
Agriculture and Markets**

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**Awardee Webinar
Round 12**

Farmland Protection Implementation Grants (FPIG)



**Awardee Webinar - Round 12 Farmland Protection Implementation Grants (FPIG) Program
July 28, 2009, 9:30am - Noon**

AGENDA

- 9:30AM **WELCOME & ROLL CALL**
- 9:35 – 9:45AM **Overview of FPIG Contract**
- 9:45 – 10:15AM **Initial Tasks**
 - » Stakeholder meeting
 - » Site plan preparation
 - » Preliminary review of project
 - » Project file management
- 10:15 – 10:35AM **Compiling the Project File – Core Documents:**
 - » Conservation Easement
 - » Purchase Agreement
- 10:35 – 11:00AM **Compiling the Project File – Key Context Documents:**
 - » Appraisal
 - » Title Commitment (& title curatives)
 - » Survey
 - » Baseline Report
- 11:00 – 11:15AM **Compiling the Project File – Misc Documents:**
 - » Stewardship Agreement
 - » Monitoring Plan
 - » Waiver of Preliminary/Final Notice of Intent
 - » Budget
- 11:15 – 11:30AM **Overview of Disbursement Process**
 - » Partial disbursement for a project
 - » Final disbursement for a project
- 11:30AM – Noon **Open Forum – Questions & Answers**
- **ADJOURN**



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July 28, 2009, 9:30am - Noon

AGENDA

- 9:30AM **WELCOME & ROLL CALL**



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- 9:35 – 9:45AM **Overview of FPIG Contract (1st of 2)**

COVERSHEET

- Contract Period: Round 12 (awards announced May 13, 2009) = 5/13/2009 – **11/12/2013 (anticipated)**
- NOTE: Given extended contract period, it is highly unlikely that any contract extension would be considered.

APPENDIX A (Standard Clauses)

- Section 10 – Records:
- “The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter.”

APPENDIX B (Project Budget)

- NOTE: No final decision yet on whether FRPP funds will be allowed as local match contribution

APPENDIX C (Award Letter & Excerpts of Grant Proposal)

- Award letter (dated May 13, 2009, for Round 12 awards)
- Farm-specific info from grant proposal for each farm associated with the FPIG contract



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AGENDA

- 9:35 – 9:45AM **Overview of FPIG Contract (2nd of 2)**
 - APPENDIX D (Department’s General Conditions)**
 - PAYMENT
 - Payment “***shall not be made unless*** the Contractor shall have ***submitted to the Department*** a written payment request together with ***such information as required by the Agreement. Payment shall not be due until the 60th calendar day after receipt*** of the payment request...”
 - CONTRACT EXPENDITURES
 - Expenditures must conform to the contract project budget (i.e., Appendix B)
 - Budgeted amounts (>\$1,000) may be adjusted up to 15% within each budget category without prior approval of the Department
 - Budget variances (>\$1,000) >15% require prior written approval of the Department
 - FINAL REPORT
 - Submit final report (i.e., post-closing file) within 90 days from completion of work – refer to Appendix E for specifics
 - DEVIATION FROM WORK
 - “Any substantial deviation from the application shall require the prior written approval of the Department.” (Refer to Appendix C for excerpts from the grant proposal)
 - APPENDIX E (Final Report – i.e., post-closing file)**
 - Copy of each of the listed documents must be provided to the Department



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- 9:45 – 10:15AM **Initial Tasks (1st of 4)**

STAKEHOLDER MEETING

- Project manager meets with all local project partners (e.g., FPIG awardee, Grantees, and their respective attorneys) and landowner (including the attorney advising the landowner) and the Department (optional) to discuss:
 - Next steps in overall process & project timeline & line(s) of communication
 - Initiate discussion about site plan
 - Review of core project file documents (discuss any intended changes to Department's Easement)
 - Discuss project budget
 - Discuss general terms of agreement
 - Discuss known title matters
- References
 - FPIG Guidance Document #1: Farmland Protection and Agricultural Districts
 - FPIG Guidance Document #2: Timeline for Farmland Protection Projects
 - FPIG Guidance Document #3: Developing a Land Plan for an Agricultural Conservation Easement
 - FPIG Guidance Document #4: Drafting Conservation Easements
 - NYSDAM Standard Agricultural Conservation Easement (August 22, 2008, version)
 - FPIG Guidance Document #5: Title Commitment and Curatives for Conservation Easements

NOTE: Errata (pg 4, 1st paragraph of "Oil and Gas Leases and Pipelines" section, should read as follows): In all cases, oil and gas exploration, development and extraction activities shall be limited and localized in impact to the Property.



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AGENDA

- 9:45 – 10:15AM **Initial Tasks (2nd of 4)**

SITE PLAN PREPARATION

- Provides important info that corresponds to the appraisal, purchase and sale contract, conservation easement and survey
- Preparation of the site plan (and its associated conservation easement) begins at the time of project application – process of land planning encourages clear communication between the project manager, Grantees, and the landowner(s)
- References
 - FPIG Guidance Document #3: Developing a Land Plan for an Agricultural Conservation Easement
 - FPIG Guidance Document #4: Drafting Conservation Easements
 - NYSDAM Standard Agricultural Conservation Easement (August 22, 2008, version)



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AGENDA

- 9:45 – 10:15AM **Initial Tasks (3rd of 4)**

PRELIMINARY REVIEW OF PROJECT

- Each project must receive preliminary approval before preparing a project file
- Preliminary review involves a policy review of two documents:
 - site plan for the subject property, and
 - draft conservation easement associated with that site plan
- NYSDAM review will evaluate:
 - long-term viability of subject agricultural land, and
 - whether easement provisions are *unreasonably restrictive* of farm operations in contravention of the Agricultural Districts Law
- References
 - FPIG Guidance Document #3: Developing a Land Plan for an Agricultural Conservation Easement
 - FPIG Guidance Document #4: Drafting Conservation Easements
 - NYSDAM Standard Agricultural Conservation Easement (August 22, 2008, version)



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- 9:45 – 10:15AM **Initial Tasks (4th of 4)**
PROJECT FILE MANAGEMENT SESSION (*Optional, but highly recommended*)
 - Session is intended for only the project manager (and others involved with compilation/preparation of any of the required documents comprising a complete project file) to:
 - view a complete and acceptable project file, and
 - learn about the fundamental basis for a review of the project file that will be conducted by the Department (i.e., the 4 “C”s: Completeness, Consistency, Clarity, and Communication)
 - Session will be conducted *after* the initial stakeholder meeting has been conducted
 - Awardees west of I-81: request a session with Jason Engel (farmland protection consultant to NYSDAM) = jason@cardinal-design.com
 - Awardees east of I-81: webinar(s) (to be determined) conducted by Jason Engel; please direct any questions or requests directly to Dave Behm = david.behm@agmkt.state.ny.us



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AGENDA

- 10:15 – 10:35AM **Compiling the Project File – Core Documents (1st of 2)**

CONSERVATION EASEMENT

– Form of Easement Document:

- *Note: For awarded projects, first priority for reviews of required documentation will be given to those entities that use the Department's Standard Agricultural Conservation Easement. Preliminary review of your project will be expedited if you use the Department's template conservation easement document "as is."*

– References

- FPIG Guidance Document #4: Drafting Conservation Easements
- FPIG Fact Sheet #2: NYSDAM Policy Content of Any Agricultural Conservation Easement Receiving FPIG Funding
- NYSDAM Standard Agricultural Conservation Easement (August 22, 2008, version)



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AGENDA

- 10:15 – 10:35AM **Compiling the Project File – Core Documents (2nd of 2)**

PURCHASE AGREEMENT

- Valid purchase agreement (e.g., purchase price stipulated, future closing date referenced, fully executed, etc.) is essential since it indicates a mutual commitment to complete the conservation easement transaction.
 - Do not submit an expired purchase agreement or one that is about to expire!
 - Purchase price should not exceed appraised value
 - Land mass described/illustrated in purchase agreement should be identical to that described/illustrated in actual conservation easement, which preferably is identical to the land mass that is appraised as the conservation easement area
 - Do not include any land use provisions that will survive the closing of the conservation easement transaction
 - You may submit either of the following:
 - unsigned DRAFT purchase agreement seeking our comments (after which you must get it fully executed immediately thereafter and resubmit a copy to the Department)
 - fully executed purchase agreement
- (NOTE: If Department finds unacceptable inconsistencies with other documents and/or unacceptable provisions therein, this document must then be amended to the satisfaction of the Department.)



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- 10:35 – 11:00AM **Compiling the Project File – Key Context Documents (1st of 3)**

APPRAISAL

- Appraisal should be prepared for (or certified to) the local government and/or the easement holder, NOT solely to the landowner
- Appraisal must reflect the land mass as illustrated in the site plan and the subdivision & land use provisions as described in the proposed conservation easement after both have been approved by the Department following its preliminary review
- Appraiser must acknowledge if enhancement may affect value of the development rights whenever a portion of the landowner's overall property is not included in the proposed conservation easement
- Valuation date should be (but is NOT required to be) within 12 months of closing
- Submit two (2) hard copies in the project file and a digital copy, if possible
- If the property is subject to a mortgage held by an entity affiliated with the appraiser, this conflict of interest will need to be addressed by either (1) finding a different appraiser who has no such conflict, or (2) obtaining a review appraisal
- References
 - FPIG Guidance Document #6: Appraisals for Conservation Easements (**anticipated Fall 2009**)



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- 10:35 – 11:00AM **Compiling the Project File – Key Context Documents (2nd of 3)**

TITLE COMMITMENT (& TITLE CURATIVES)

– References

- FPIG Guidance Document #5: Title Commitment and Curatives for Conservation Easements

NOTE: Errata (pg 4, 1st paragraph of “Oil and Gas Leases and Pipelines” section, should read as follows): In all cases, oil and gas exploration, development and extraction activities shall be limited and localized in impact to the Property.



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- 10:35 – 11:00AM **Compiling the Project File – Key Context Documents (3rd of 3)**

SURVEY

- Survey (and legal description) must illustrate (and describe) the entire easement area
- Survey may (but is NOT required to) illustrate the existing and reserved farmstead areas, if any
- References
 - FPIG Guidance Document (**under development**)

BASELINE REPORT

- ***draft*** baseline report is one of the required documents of a complete project file that is submitted to the Department prior to disbursement of funds to the FPIG awardee
- ***final*** baseline report is one of the required documents of a complete final report (i.e., post-closing file) – it must contain any updates of those components required in the draft version
- References
 - FPIG Guidance Document #7: Developing a Baseline Documentation Report



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- 11:00 – 11:15AM **Compiling the Project File – Misc Documents (1st of 3)**

STEWARDSHIP AGREEMENT

(AKA Memorandum of Agreement between awardee and Grantee(s))

NOTE: If FPIG awardee is a Grantee, no stewardship agreement is required.

- Must stipulate what role(s) (if any), including the duties and responsibilities of each, the local government has in completing the conservation easement transaction
- Must identify the easement holder(s) (i.e., Grantees) for each proposed conservation easement

MONITORING PLAN

NOTE: If stewardship agreement is used for the project and it sufficiently describes a monitoring plan, that is acceptable and no separate monitoring plan will be required.

- Must identify the entity that is responsible for monitoring
- Must describe the monitoring process and should include copies of the forms and procedures to be employed during the monitoring of the subject property
- Monitoring should be annually and should stipulate whether such monitoring will be on-site or by aerial means



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- 11:00 – 11:15AM **Compiling the Project File – Misc Documents (2nd of 3)**

WAIVER OF PRELIMINARY/FINAL NOTICE OF INTENT

NOTE: Only necessary if subject property (in whole or part) is located within a local Agricultural District. To determine if the property is located within an Agricultural District, contact the County Planning Department.

- Land described must reflect that portion of the land mass (in whole or part) as described/illustrated in the grant proposal that is actually located within an Agricultural District – if more than one Agricultural District, indicate each on this form
- Must be fully executed



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- 11:00 – 11:15AM **Compiling the Project File – Misc Documents (3rd of 3)**

BUDGET

- Insert the correct project budget form when submitting the project file –
 - 2008-2009 Budget Summary (Form B.1) (if 2 or more easements are associated with the awarded project)
 - 2008-2009 Project Budget (Form B.2 - \leq \$29,000/A) (for each easement associated with the awarded project whose value of development rights \leq \$29,000/A)
 - 2008-2009 Project Budget (Form B.3 - $>$ \$29,000/A) (for each easement associated with the awarded project whose value of development rights $>$ \$29,000A)
- ***IF*** FRPP funds are allowed as local contribution, the project budget(s) submitted in project file must reflect that contribution
- Actual surveyed acreage of easement area must be shown on this form; if less than what was listed in grant proposal, please contact Dave Behm *before* submitting the project file
- If unanticipated cost increases occurred (i.e., escalating land values), please contact the Department before submitting the project file – you may request a contingency fund award; contingency awards are determined on a first-come, first served basis until they are gone (Round 12 = \$1,150,000)
- State contribution toward total project costs shall not exceed the % indicated on the project budget inserted in your FPIG contract and shall never exceed 75.0%



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- 11:15 – 11:30AM **Overview of Disbursement Process (1st of 3)**

ADVANCE PAYMENT PROCESS

NOTE: Recommended ONLY IF necessary to ensure the completion of the easement transaction

- Request for advance payment *shall not be initiated until after* the Office of State Comptroller has approved the FPIG contract (contract approval date)
- *Before* requesting an advance payment, please contact Dave Behm for guidance

PARTIAL DISBURSEMENT PROCESS

NOTE: Urged NOT to do so; instead, request “final payment” upon submission of complete project file

- Request for partial disbursement *shall not be initiated until after* the Office of State Comptroller has approved the FPIG contract (contract approval date)
- *Before* requesting a partial disbursement, please contact Dave Behm for guidance
- References

- FPIG Agreement (i.e., FPIG contract), Appendix D, page 1



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- 11:15 – 11:30AM **Overview of Disbursement Process (2nd of 3)**

FINAL PROJECT BUDGET

- Refer to “Compiling the Project File – Miscellaneous Documents” for specific guidance regarding preparation of a disbursement budget

STATE STANDARD VOUCHER

- Refer to sample for specific guidance (request a digital version from Dave Behm: david.behm@agmkt.state.ny.us)



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- 11:15 – 11:30AM **Overview of Disbursement Process (3rd of 3)**
APPROVAL OF PROJECT FILE
 - Once project file is acceptable to Department, you will be notified via email
 - Upon notification that project file is acceptable to Department, submit a completed and fully executed Standard Voucher to Department

FINAL PAYMENT

- Upon Department's approval of the project file and its receipt of a completed and fully executed Standard Voucher, the project will be ready to initiate disbursement
- Department will only initiate disbursement upon receiving authorization to do so from the Division of Budget subject to the monies available from the Environmental Protection Fund to the Department for FPIG disbursements for a given month – however, it is unknown how long your wait may be before disbursement is initiated
- Once the Department initiates disbursement to the Office of State Comptroller, you will be notified via email
- Receipt of State funds by local government typically occurs 3-4 weeks thereafter
- Schedule the date of closing of the conservation easement transaction accordingly
- References
 - FPIG Agreement (i.e., FPIG contract), Appendix D, page 2



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- 11:30AM – Noon **Open Forum – Questions & Answers**





For more information, contact Dave Behm, Farmland Protection Program Manager:
david.behm@agmkt.state.ny.us OR 518-485-7729