

PART I

ALABAMA AGRICULTURAL AND CONSERVATION DEVELOPMENT COMMISSION PROGRAM
RULES AND REGULATIONS



ALABAMA AGRICULTURAL AND CONSERVATION DEVELOPMENT COMMISSION
IN COOPERATION WITH
ALABAMA SOIL AND WATER CONSERVATION COMMITTEE
ALABAMA'S 67 SOIL AND WATER CONSERVATION DISTRICTS

(APPROVED BY THE COMMISSION ON JULY 11, 1988)

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ALABAMA AGRICULTURAL AND CONSERVATION DEVELOPMENT COMMISSION PROGRAM

RULES AND REGULATIONS

I. AUTHORITY

The Alabama Agricultural and Conservation Development Commission Program (AACDCP) identified as Act 86-426, as amended, was enacted by the Legislature of Alabama on April 29, 1986. This Act established the Alabama Agricultural and Conservation Development Commission and authorized it to make available cost-share grants of money derived from appropriations made to the Commission by the Legislature for the encouragement and financing of soil conservation, water quality improvement, and reforestation and forest improvement practices in the State.

II. PURPOSE AND SCOPE

The purpose of the AACDCP is to provide financial assistance through cost-share grants to owners of land used for agricultural or timber production for applying soil conservation, water quality improvement, or reforestation and forest improvement practices.

III. DEFINITIONS

For purposes of these rules and regulations, the following definitions shall apply:

- A. Act means the legislation creating the Alabama Agricultural and Conservation Development Commission Program.
- B. Allocated funds means funds budgeted through the State Committee to the Conservation District for cost-share grants.
- C. Applicant means a person(s) who applies for a cost-share grant from the Conservation District.
- D. Available funds means monies budgeted, unobligated and approved by the Commission for cost-share grants.
- E. Case File means the collection of materials that are assembled and maintained for each application for a cost-share grant.
- F. Commission means the Alabama Agricultural and Conservation Development Commission organized pursuant to the provisions of the Constitution of Alabama of 1901, as amended, and Act 86-426, as amended.
- G. Conservation plan means the record of decisions approved by the Conservation District for applying and maintaining conservation practices on the land (site) that is proposed to be treated using a cost-share grant.

- H. Cost-share grant means an award of money made to an eligible person for conservation practices pursuant to the terms of Act 86-426, as amended.
- I. Designated funds means the one percent of cost-share funds available to each Conservation District adding to sixty-seven percent of the total appropriation.
- J. Designated technician means a qualified technician designated by the Conservation District to determine need, design and layout proposed conservation practices, determine compliance with applicable design standards and specifications, and certify completion of practices.
- K. Disbursed funds means funds released by the Commission through the State Committee to the Conservation District for payment to applicants for cost-share grants.
- L. Discretionary funds means those funds available for cost-share grants not included in the one percent distributed equally to each Conservation District which may be distributed at the option of the Commission.
- M. District supervisor means a member of the governing board of a soil and water conservation district.
- N. Eligible Land means those lands that are eligible for application of conservation practices using cost-share grants.
- O. Eligible person means any of the land holders eligible to apply for cost-share grants.
- P. Eligible practices means those conservation practices that have been approved by the Commission.
- Q. Landowner means any person, firm, or corporation holding title to land lying within a soil and water conservation district.
- R. Legal description means the township, range, and section, where a cost-share conservation practice is located.
- S. Maintenance agreement means a written agreement between the eligible person and the conservation district wherein the eligible person agrees to maintain the applied conservation practice(s) for a period of time as established by the Commission and outlined in the applicable conservation plan.
- T. Obligated funds means monies from a conservation district's allocated funds which have been committed to an applicant after final approval of the application.
- U. Oversight committee means the ex-officio members of the Commission appointed to review and make reports to the legislature of the programs and activities of the Commission.

- V. Performance agreement means a written agreement between the eligible person and the conservation district wherein the eligible person agrees to perform conservation practices for which allocated funds are being paid.
- W. Priority system means the system devised by the Conservation District, under guidelines of the Commission, for ranking approved conservation practices, and for facilitating the disbursement of allocated funds in line with the district's priorities.
- X. Program year means the period from October 1 to September 30.
- Y. State Soil and Water Conservation Committee, hereinafter called State Committee, means the agency of the State established and existing pursuant to Section 9-8-22 of the Code of Alabama 1975.
- Z. Soil and Water Conservation District, hereinafter called Conservation District, means a government subdivision of this State and a public body corporate and politic, organized pursuant to Article 2 of Chapter 8 of Title 9 of the Code of Alabama 1975.
- AA. Soil and water conservation practice(s), hereinafter called conservation practice(s), means the measure(s) approved by the Commission and applied to the land that prevent soil erosion or improve the quality of water from agricultural sources or improve the forest resources.
- AB. Tracts of land means all the lands owned by the applicant in a single parcel or several parcels that lie within a Conservation District.
- AC. Site means the field or forest stand in which the conservation practice is to be installed.
- AD. Marginal Cropland means cropland fields unsuited for continuous cultivation. Usually includes land capability classes III, IV, and VI.

IV. RESPONSIBILITIES

- A. The Commission shall:
 1. Allocate and disburse funds, through the State Committee, to the Conservation District for use by them in making cost-share grants.
 2. Establish, with the advice of the State Committee, those conservation practices eligible for cost-share grants and their standards, specifications, and expected life.
 3. Designate, delegate and assign to the State Committee any clerical, administrative and record-keeping responsibilities required in carrying out the purposes of this Act that the Commission may designate.

4. Establish the minimum cost-share grant prior to October 1 each year that may be made under the program and the maximum cost-share grant that an eligible person may receive under the program in any one program year.
 5. Administer a reserve fund for each program year that shall not exceed \$10,000.
- B. The State Committee shall:
1. Transmit allocated and disbursed funds received from the Commission to the Conservation Districts.
 2. Advise the Commission on standards, specifications, and expected life of conservation practices eligible for cost-share grants.
 3. Perform clerical, administrative and record-keeping responsibilities required for carrying out the AACDCP as delegated and assigned by the Commission.
 4. Receive and maintain monthly reports from Conservation Districts showing the unobligated balance of allocated funds as shown on each ledger at the close of the last day of each month.
 5. Submit consolidated quarterly reports to the Commission of the reports from Conservation Districts on unobligated balance.
 6. Receive requests for reallocated funds and funds reverted from Conservation Districts and prepare a report showing the recommended distribution of reallocated funds by March 30 of each year for consideration by the Commission.
 7. Transmit annual progress reports from the Conservation Districts to the Commission.
 8. Act on appeals filed by applicants.
- C. The Conservation Districts shall:
1. Designate, subject to approval of the Commission, conservation practices that will be eligible for cost-share grants in their districts.
 2. Administer allocated, reallocated, and disbursed funds received from the Commission for cost-share grants.
 3. Maintain control ledgers for cost-share grant funds allocated and disbursed to their districts.
 4. Establish, under guidelines of the Commission, the priority system to be used for evaluation of applications.

5. Establish the period(s) of time for accepting applications and announce the AACDCP locally.
6. Accept and process AACDCP applications.
7. Determine eligibility of lands and persons for cost-share grants.
8. Notify applicants of the district's decisions on approval of applications.
9. Establish a case file for each approved application.
10. Obligate allocated funds for applications receiving final approval.
11. Provide or arrange for the designated technician to give technical assistance to applicants.
12. Make cost-share grant payments to applicants for completed conservation practices.
13. Submit monthly reports on unobligated balance of allocated and disbursed funds and annual reports on accomplishments to the State Committee.
14. Submit requests for reallocated funds, if needed, to the State Committee by February 1 of each year. All requests submitted will be accompanied by a list of all valid unfunded applications ranked according to the District's priorities and showing each applicant's name, program element requested, and the estimated amount of cost-share grant funds needed to satisfy each respective application.
15. Return all funds not obligated as of March 1 of each year to the State Committee.
16. Inspect practices for sellers and buyers of land and prepare written statements on maintenance of practices installed using cost-share grants, if requested.
17. Act on appeals submitted to the District and provide data on appeals submitted to the State Committee by the applicant.

D. The designated technician shall:

1. To qualify, have successfully completed a full four year course of study in an accredited college or university leading to a bachelor's or higher degree, with a major study in soil conservation, forestry, or one of the closely related natural resource, agricultural or silvicultural fields, and have a minimum of one year practical experience in planning, designing, and applying conservation practices on the land.
2. Assist applicants develop conservation plans and determine need for conservation practices.
3. Design and layout, where applicable, approved conservation practices.
4. Determine compliance with applicable standards and specifications.
5. Have authority to delegate the design and layout of approved conservation practices and the determination of compliance with applicable standards and specifications to employees under his/her supervision.
6. Certify practice quantities and completion of practice.

V. ADMINISTRATION OF FUNDS

- A. General. The Commission will, through the State Committee, allocate and disburse funds received by the Commission for cost-share grants to the Conservation Districts in steps identified as original allocation, reversion of allocated funds, and reallocation of reverted funds.
- B. Original Allocation. The allocated funds received by the Commission through legislative appropriations for the program will be allocated to the State's 67 Conservation Districts at the beginning of each fiscal year in accordance with formulas established by the Commission taking into account the percentage of the State's highly erosive areas, the reforestation needs and the agricultural water pollution problems of each Conservation District in the State, subject to a minimum base allocation of one percent of available funds for each Conservation District.
- C. Reversion of Allocated Funds. Any funds allocated in a fiscal year that the Conservation Districts have not obligated by March 1 of that fiscal year, and any funds that were obligated during the previous program year for conservation practices for which disbursements have not begun by March 1 will revert to the Commission for reallocation.
- D. Reallocation of Reverted Funds. The Conservation Districts shall submit requests for reallocation of reverted funds, if any, to the Commission by February 1 of each year. The

Conservation District will include in the request a list of all valid unfunded applications listed in the District's priority order and containing each applicant's name, the program element requested and estimated cost of each respective application. The allocation to any district will be the lesser of:

1. The amount of available monies less reserve fund divided by the number of districts applying for a reallocation, or
 2. The amount requested.
- E. Reobligation of Funds Released by Applicants after March 1. Conservation Districts may reobligate funds released by an applicant after March 1 to other approved unfunded applications filed within the same program year. Applications approved for use of reobligated funds will be processed by the District using the same procedures and given the same protection and requirements as applications receiving originally obligated funds.
- F. Reserve Funds. The Commission shall administer a reserve fund for each program year that shall not exceed \$10,000 to be set aside and used only to meet contingencies that occur in the districts or within the Commission. Each time a reallocation is made to the districts, an allocation will be made to the reserve fund if necessary to return the reserve fund balance to the appropriate level.

VI. ELIGIBILITY FOR COST-SHARE GRANTS

- A. Eligible person. Any individual, partnership, family-owned corporation the owners of all the stock of which are related by blood or marriage, legally recognized Indian Tribe, estate, or trust who as an owner, lessee, tenant, or sharecropper, participates in the operation of (1) a farm lying within a Conservation District, or (2) a tract of land devoted to the growth of timber lying within a Conservation District shall be eligible for cost-share grants.
- B. Eligible land. Any of the following categories of land shall be eligible for cost-share grants:
1. Privately-owned land within the State;
 2. Land owned by the State or a political subdivision of the State;
 3. Lands owned by corporation which are partly owned by the United States;
 4. Lands temporarily owned by the United States or a corporation wholly owned by it, which were not acquired or reserved for conservation purposes, including lands administered by the Farmers Home Administration, the U. S. Department of Defense, or by any other government agency;

5. Any cropland farmed by private persons which is owned by the United States or a corporation wholly owned by it; or
6. Noncropland owned by the United States on which practices are performed by private persons where such practices directly conserve or benefit nearby or adjoining privately-owned lands of the persons performing the practices and such persons maintain and use such federally-owned noncropland under agreement with the Federal Agency having jurisdiction thereof.

C. Ineligible lands. Allocated funds shall not be used:

1. To reimburse other units of government for implementing conservation practices;
2. On privately owned land not used for agricultural or timber production; or
3. On tracts of land used for agricultural or timber production smaller than twenty acres in size from which less than \$1,000 of agricultural products are sold annually.

D. Eligible purposes. Cost-share grants shall be available only for those conservation practices determined to be needed by the Conservation District to:

1. Reduce erosion;
2. Improve agricultural water quality; or
3. Improve forest resources.

E. Eligible practices. Conservation practices which the Commission has approved shall be eligible for cost-share grants. A complete listing of the eligible practices is contained in the Commission's program document. The list of eligible practices will be approved by the Commission at the beginning of each fiscal year. The Conservation Districts shall designate their list of eligible practices only from those practices approved by the Commission.

Conservation Districts may request the Commission's approval to offer conservation practices not included in the Commission's list of approved practices. The use of special conservation practices is limited to those practices that can solve unique problems in a conservation district(s) and which conforms with one or more of the purposes of the AACDCP. Requests for special conservation practices will be filed in writing with the Commission in time to obtain action and notification in writing from the Commission if its decision(s) prior to announcing the AACDCP locally for the program year. Conservation practice(s) may be included in a Conservation District's list of eligible

practices offered for cost-share grants only as approved by the Commission.

F. Requirement to file an application and conservation plan. In order to qualify for a cost-share grant, an eligible person shall file:

1. An application for allocated funds, and
2. A conservation plan approved by the Conservation District in which the applicant's land is located.

G. Persons authorized to sign applications and agreements. All applications and agreement shall be signed by:

1. The eligible person;
2. Any person designated to represent the eligible person, provided an appropriate notarized durable power of attorney has been filed with the soil and water conservation district office; or
3. The responsible person or administrator, in cases of estates, provided that letters of administration or letters testamentary have been submitted to the district in lieu of a power of attorney.

VII. COST-SHARE GRANT PROCESSING PROCEDURES

A. Responsibilities of applicants. Applicants for cost-share grants for conservation practices shall:

1. Complete and submit an application and an approved conservation plan to the Conservation District.
2. Specify, in the application, the anticipated total cost of the practice to be implemented and the percentage, if any, of such cost which the applicant proposes to bear, which percentage shall not be less than the minimum specified by the Commission for cost-share grants for the particular practice.
3. Where an applicant does not have a conservation plan and has not determined the anticipated total cost of the requested practice(s), he/she, as part of the application, may request assistance from the Conservation District in developing such plan and determining costs. When the conservation plan has been completed and the anticipated total cost determined, the application will be completed.
4. After being notified of approval and obligation of funds by the district, request the designated technician to design and layout the approved practices.

5. Secure any contractor(s) needed and all contractual or other agreements necessary to construct or perform the approved practice(s).
6. Complete and sign performance and maintenance agreements and any amendments to those agreements.
7. Supply the documents necessary to verify completion of the approved practice(s) along with a completed and signed certification of cost.

B. Responsibilities of Conservation Districts. Conservation Districts shall:

1. Establish the period(s) of time for accepting applications and announce the AACDCP locally.
2. Accept AACDCP applications at the Conservation District's office.
3. Determine eligibility of lands and persons for cost-share grants. If an applicant's land is in more than one Conservation District, the respective district boards of supervisors will review the application and agree to obligate all funds from one district or prorate the funding between districts.
4. Give initial approval to those applications that meet the eligibility requirements.
5. Evaluate the initially approved applications under the District's priority system and give final approval to the high priority applications that can be funded by the district's allocated funds.
6. Obligate funds for the approved conservation practices that can be funded and notify the applicants, using form AACDCP-2, that his/her conservation practice(s) has been approved for a cost-share grant(s) and to proceed with installation.
7. Provide the designated technician(s) a list of applicants approved to receive cost-share grants.
8. Request the designated technician(s) to determine compliance to standards and specifications and provide an estimate of cost of each conservation practice(s) installed to the Conservation District.
9. Make payment to applicants successfully completing conservation practices.

C. Amended Applications for Allocated Funds

1. In the event that adjustment to the conservation practice(s) cost estimate is necessitated by the final design, the applicant shall either agree to:
 - a. Assume the additional cost; or
 - b. Complete and submit amendment to application for allocated funds to the district for approval or denial by the district.
2. The Conservation District may:
 - a. Adjust the amount of funds obligated for the conservation practice(s), provided funds are available; or
 - b. Request additional funds from the Commission.
3. In the event that additional funds are not available, the conservation practice(s) may be redesigned, if possible, to a level commensurate with available funds, provided the redesign still meets standards established by the Commission, or the applicant can agree to assume full financial responsibility for the portion of the conservation practice(s) cost in excess of the amount authorized.

D. Performance Agreement. As a condition for receipt of a cost-share grant for conservation practices, the eligible person receiving the benefit of such grant shall agree to perform those practices. Specific conditions of the performance agreement is detailed in item 7 of Form AACDCP-1, Application for a Cost-Share Grant. Completion of the form and signature of the eligible person is required prior to the transfer of the payment from the district to the recipient.

E. Maintenance Agreement. As a condition for receipt of a cost-share grant, the person receiving the grant shall agree to maintain approved practices for the expected life of the practice as established by the Commission and outlined in the applicable conservation plan. Specific conditions of the maintenance agreement shall be detailed in item 6 of Form AACDCP-2, Approval for a Cost-Share Grant. Completion of the form and signature of the eligible person is required prior to transfer of the payment from the district to the recipient.

F. Payment to recipients. The Conservation District shall:

1. Determine eligibility of the applicant to receive payment of a cost-share grant by reviewing documents provided by the applicant and the designated technician and contained in the applicant's case file.

2. Make transfer of payment from the district to the recipient upon favorable determination of successful completion of the conservation practice(s).
- G. Applications Held In Abeyance Because of Lack of Funds. In those cases where funds are not available, the applications will be held by the Conservation District until allocated funds become available or until the end of the program year. When additional funds are received, the Conservation District will obligate these funds using the same priority system as in the initial obligation process.
- H. Applications Denied for Reasons Other Than Lack of Funds. Applications for funds which are denied by the Conservation District supervisors for other than lack of funds shall be retained in the records of the district to the end of the program year. Written notification of the denial shall be provided to the applicant along with the reason(s) that the application was denied.
- I. Applications Withdrawn. An application may be withdrawn by the applicant at any time prior to receipt of cost-share grant by notifying the district in writing that withdrawal is desired. Applications withdrawn by the applicant shall be retained in the records of the district until the end of the program year.
- J. Appeals.
1. The applicant may appear the Conservation District's decisions relative to his/her application for allocated funds.
 2. The applicant shall make any appeal in writing to the Conservation District which received his/her application for allocated funds and shall set forth the basis for the appeal.
 3. The Conservation District shall have 30 days in which to make a decision and notify the applicant in writing.
 4. The decision of the Conservation District may be appealed by the applicant to the State Committee.
 5. All appeals made to the State Committee shall be made in writing and shall set forth the basis for the appeal.
 6. The State Committee's decision shall be final.
- K. Case files. A case file shall be assembled and maintained in the conservation district office for each application approved. The case file will be filed by program year and will be accessible for review by the public. The file will contain:
1. The approved application for allocated funds;

2. A copy of the estimated cost sheet;
3. Certification of practice quantities and cost;
4. Vouchers, bills or receipts;
5. Receipt of payment;
6. The performance agreement;
7. Any amendments to the performance agreement;
8. The maintenance agreement;
9. Any amendments to the maintenance agreement;
10. A map and legal description locating the practice;
11. The approved conservation plan.
12. Checklist for Cost-Share Application

VIII. MAINTENANCE OF PRACTICES

- A. Requirements for maintenance of practices applied using cost-share grant funds will be outlined in the eligible persons conservation plan and on Form AACDCP-2 and reviewed with the eligible person at the time the conservation plan is developed.
- B. A properly executed maintenance agreement shall be signed by the successful applicant prior to receipt of payment of a cost-share grant from the Conservation District for a conservation practice(s) installed.
- C. The Conservation District may require refund of cost-share grants paid to an eligible person when the applied conservation practice(s) has not been maintained in compliance with applicable design standards and specifications for the practice during its expected life as agreed to by the eligible person.
- D. Conservation practices that have been successfully completed and which later fail as the result of floods, drought, or other natural disasters, and not the fault of the applicant, may apply for additional cost-share grant funds to restore them to their original design standards and specifications.
- E. In cases of hardship, death of the participant, or at the time of transfer of ownership of land where a conservation practice(s) has been applied using a cost-share grant and the expected life assigned the practice has not expired, the participant, heir(s), or buyer(s) respectively, will be encouraged to maintain the practice(s).

IX. DETERMINING STATUS OF PRACTICES DURING TRANSFER OF LAND OWNERSHIP

- A. A seller of agricultural or timber land with respect to which a maintenance agreement is in effect may request the Conservation District to inspect the practices. If the practices have not been removed, altered, or modified, the district shall issue a written statement that the seller has satisfactorily maintained the permanent practice as of the date of the statement.
- B. The buyer of lands covered by a maintenance agreement may also request that the district inspect the lands to determine whether any practice has been removed, altered, or modified as of the date of the inspection. If so, the district will provide the buyer with a statement specifying the extent of noncompliance as of the date of the statement.
- C. The seller and the buyer, if known, shall be given notice of the time of inspection so that they may be present during the inspection to express their views as to compliance.

X. REPORTING AND ACCOUNTING

- A. Each Conservation District shall:
 - 1. Maintain a control ledger showing allocated funds obligated for approved applications, based on estimated cost;
 - 2. Submit a monthly report to the State Committee indicating the unobligated balance of allocated and disbursed funds as shown on each ledger at the close of the last day of each month; and
 - 3. Submit through the State Committee an annual progress report to the Commission showing accomplishments "to date" by program year funds.
- B. The State Committee shall:
 - 1. Receive and maintain monthly reports from Conservation Districts showing the unobligated balance of allocated and disbursed funds as shown on each ledger at the close of the last day of each month;
 - 2. Submit consolidated quarterly reports of the reports from Conservation Districts on unobligated balance to the Commission; and
 - 3. Transmit annual progress reports from the Conservation Districts to the Commission on or before November 4 each year.

