

GUIDELINES

New York State New Farmers Grant Fund



State of New York
Andrew M. Cuomo, Governor

Empire State Development
Howard Zemsky, President & CEO

October 2015

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2015

New York State New Farmers Grant Fund Guidelines

Program Summary

New York State has allocated \$1 million in the 2015-2016 state budget for the New York State New Farmers Grant Fund. Administered by the New York State Urban Development Corporation d/b/a Empire State Development ("ESD") in consultation with the Department of Agriculture and Markets ("Ag & Markets"), its purpose is to provide grants to support beginning farmers who have chosen farming as a career and who materially and substantially participate in the production of an agricultural product within a region of the state. Supporting beginning farmers will result in the growth of agribusiness and the concomitant tax revenues within the state.

Grants may provide a minimum of \$15,000 and a maximum of \$50,000 for up to 50% of total project costs. The remaining 50% must be matched by the recipient. Eligible sources of recipient match are limited to cash, lines of credit and loans. Other grant funds may not be used as matching funds. The minimum grant award is \$15,000 and the maximum is \$50,000. For any award the total project cost must be at least twice the grant award request.

Grant awards will be announced in the Spring of 2016.

Contact Information

Questions should be sent to Bonnie Devine at nyfarmfund@esd.ny.gov

Application

The application form, guidelines, amendments to these guidelines and additional information about the program can be accessed on the New Farmers Grant Fund website:

<http://esd.ny.gov/BusinessPrograms/NewFarmersGrantFund.html>

Applications must be postmarked by January 22, 2016. Applications postmarked after such date will not be accepted. Based on interest in the program and the availability of program funds the deadline for submission of applications may be extended by ESD at its discretion.

Applicants must submit one paper copy of the completed application and all attachments to the following address:

**NYS New Farmers Grant Fund
Empire State Development
625 Broadway, 8th floor
Albany, NY 12245**

Incomplete or late applications will not be accepted. If changes are made to this solicitation a notification will be posted at: <http://esd.ny.gov/BusinessPrograms/NewFarmersGrantFund.html> It is incumbent on the applicant to check the website for program amendments and clarifications to these guidelines prior to submitting an application.

1. **Program Goals**

Improve farm profitability through one or more of the following goals:

- Expanding agricultural production, diversifying agricultural production and/or extending the agricultural season;
- Advancing innovative agricultural techniques that increase sustainable practices such as organic farming, food safety, reduction of farm waste and/or water use;
- Creating or expanding partnerships with other entities such as farm operations, institutions or regional food-hubs¹ for processing, selling and/or distributing agricultural products.

2. **Eligibility**

A. **Farm** (all criteria below must be met):

- A farm operation² of one hundred fifty acres or less located wholly within New York State which produces an agricultural product³ as defined by these Guidelines;
- The farm operation must have a minimum of \$10,000 in sales from products grown or derived from the applicant's farm operation as reflected in either personal or business 2014 or 2015 tax returns;
- All owners must be New York State Residents of at least 18 years of age;
- As of April 1, 2015, all owners must be in the first ten years of having an ownership interest in any farm operation;
- All owners must materially and substantially participate in the day-to-day production of an agricultural product grown or raised on the farm operation.

B. **Eligible Applicants**

- Business Corporations
- Sole Proprietorships
- Limited Liability Company
- Partnerships
- Subchapter S Corporations
- Agricultural Cooperatives

C. **Ineligible Applicants**

- Not-for-profit organizations;
- Those delinquent on federal, state and/or local tax obligations;
- Those subject to any litigation, or against whom litigation is threatened, which will likely have an adverse effect on the applicant's financial condition;
- Those in violation of federal, state or local laws or regulations with respect to labor practices, hazardous wastes, environmental pollution or operating practices; or
- Those in bankruptcy.

¹ A regional food-hub is a business or organization that actively manages the aggregation, distribution, and marketing of source-identified food products primarily from local and regional producers to strengthen their ability to satisfy wholesale, retail, and institutional demand.

² Farm operation means the land and on-farm buildings, equipment and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise.

³ N.Y. Agriculture and Markets Law § 328(2). "Agricultural product" shall mean any agricultural or aquacultural product of the soil or water, including but not limited to fruits, vegetables, eggs, dairy products, meat and meat products, poultry and poultry products, fish and fish products, grain and grain products, honey, nuts, preserves, maple sap products, apple cider, and fruit juice.

D. Project Costs

Eligible project costs include the purchase of new or used machinery and equipment, supplies, and/or construction or improvement of physical structures used exclusively for agricultural purposes. All project costs must be directly related to achieving Program Goals as set forth in Section 1 of these Guidelines.

For construction projects an applicant may perform the work themselves but an applicant's labor or employee's labor is not an eligible cost or match.

Ineligible project costs, include, but are not limited to:

- Costs incurred prior to March 1, 2016;
- Costs not directly related to the project;
- Land purchase or lease;
- Motor vehicles, boats, trailers, and 4-wheelers;
- Educational programs;
- Retail enterprises;
- Livestock purchase, grooming, boarding and feed;
- Pesticides/herbicides;
- Design expenses and permits;
- Applicant's labor and farm employee's labor;
- Marketing materials;
- Routine operation and maintenance costs;
- Tree removal; driveways; irrigation ponds; septic, sewer, well or wastewater improvements;

E. Previous New Farmer Grant Fund Recipients

Previous grant recipients may be considered for funding; provided, however, that no single farm operation may receive an amount that exceeds \$50,000 cumulatively, for all program years.

3. Application Requirements and Review

A. Required Documents

Only complete applications will be considered for review. A completed application must include, but not be limited to, the following:

- Application with original signature and all attachments;
- Business plan, as required in Section 3 of the application, including a complete project budget and project work plan;
- Copy of all farm owners NYS issued identification;
- Copy of the farm operation's complete federal and state tax returns for the three most recent years and a copy of all owners complete federal and state personal tax returns for the three most recent years;
- Documentation of the annual revenues from the sale of agricultural products for the past three years (or less if not in business that long) including a balance statement, income statement and cash flow statement;
- Income projections for the next three years, including balance statements, income statements, and cash flow statements;
- Certificate/letter of incorporation/DBA (unless sole proprietor using own name);

- Current resumes for all farm operation owners including complete contact information. Include both agricultural and non-agricultural work. For agricultural work experience, indicate if work was full-time or part-time and describe duties. Include any relevant education, formal agricultural related training, agricultural certifications or involvement with farming mentors;
- Documentation of matching funds including loan commitment letters, and/or bank statements;
- Documentation of project costs including detailed scope of services and one quote for all items under \$1,000 and three quotes for items over \$1,000.
- Photocopy of the lease(s) or deed(s) for all properties that comprise applicant's farm;
- If property is leased, a letter of support for the project from landowner;
- Two letters of support for the project commenting on experience and capacity of applicant and feasibility and readiness of project to move forward;
- Tax map(s) indicating location of all farm operation properties with project location clearly identified;
- Plot plans, photos and other visual material that describe the project;
- If applicable, design plans for construction projects;
- If obtained, a copy of all permits, certificates or approvals for the project. If not yet obtained, provide status. If a construction project will not need a building permit, attach a letter from the local building department to that effect.

B. Criteria for Projects Located on Leased Land⁴

- All project elements must be portable. Projects involving improvements not easily removed (i.e. installation of permanent equipment, construction of permanent real property structures, non-movable fencing, or utility improvements) are not eligible;
- All leases must be at an arm's length transaction where the tenant and landowner act independently and the landowner has no significant financial interest or gain as a result of the project;
- Leases must include the following: description of land, buildings and equipment that are included; the rights of each party; payment terms and length of lease.

C. Application Review

All eligible applications will be reviewed based on, but not limited to, the following criteria:

- Business Plan clearly describes how the project will improve farm profitability through one or more of the following: (25 points)
 - Expanding agricultural production, diversifying agricultural production and/or extending the agricultural season;
 - Advancing innovative agricultural techniques that increase sustainable practices such as organic farming, food safety, reduction of farm waste and/or water use;
 - Creating or expanding partnerships with other entities such as farm operations, institutions or a regional food-hub for processing, selling and/or distributing agricultural products.

⁴ This criteria does not apply if the landowner and the tenant are separate businesses but are both owners of the same farm operation.

- Applicant Experience and Financial Soundness (20 points)
 - Applicant demonstrates financial aptitude and stability;
 - Applicant has the expertise, experience, and the capacity to successfully manage and implement the project.
- Project, Work Plan, and Implementation (10 points)
 - Project partners, products, markets and target customers are clearly identified;
 - Work plan demonstrates clear measurable deliverables and anticipated completion dates.
- Project Budget and Match (20 points)
 - Budget narrative and budget tables clearly detail and justify all project costs;
 - Costs are directly related to achieving Program Goals as set forth in Section 1 of these Guidelines;
 - The budget is cost effective and required vendor quotes provide adequate detail as to project components;
 - The source and amount of the 50% recipient match and funding available to complete the project prior to grant disbursement is documented.
- Financial Need (5 points)
 - Application clearly describes and reflects why financial assistance is necessary to implement the project.
- Advances Goal of a Career in Farming (10 points)
 - Application describes how the project will advance the applicant’s goal of a career in farming.
- Thoroughness of Application (10 points)
 - Application is detailed in its description of project, budget and goals, and does not leave questions in the mind of reviewer.

D. Application Approval

Applications scoring 80 or higher will be considered for funding. Not all applications scoring over 80 will be funded. Factors used in determining successful grant proposals may include the geographic distribution of projects and the level of funding available. In some cases projects may only be funded in part.

4. Contracting Requirements

All applicants will be notified in writing whether or not their project was selected for funding. If approved, the grantee will be required to enter into a contract with ESD. The following are some of the required conditions within the contract:

A. Insurance

- For projects located in the following counties: New York, Kings, Bronx, Richmond, Queens, Nassau, Suffolk or Westchester:
The grantee shall maintain Commercial General Liability Insurance providing both bodily injury (including death) and property damage insurance in a limit not less than Two Million Dollars (\$2,000,000) per occurrence, Three Million Dollars (\$3,000,000) aggregate. ESD

and each of its directors, officers, employees, agents and representatives shall be additional insureds and certificate holders, on a primary and non-participatory basis, with full waiver of subrogation (General Liability Additional Insured Endorsement shall be on Insurance Service Office's (ISO) form number CG 20 26 11 85) or equivalent acceptable to ESD. Any property insurance maintained by the grantee shall remain in effect throughout the life of the project. In the event of a casualty or loss insurance proceeds must be applied towards restoration of the project.

- For projects located in counties not listed above:
If awarded funding, the farm operation will be required to maintain Commercial General Liability Insurance providing both bodily injury (including death) and property damage insurance in a limit not less than One Million Dollars (\$1,000,000) per occurrence, Two Million Dollars (\$2,000,000) aggregate. ESD and each of its directors, officers, employees, agents and representatives shall be additional insureds and certificate holders, on a primary and non-participatory basis, with full waiver of subrogation (General Liability Additional Insured Endorsement shall be on Insurance Service Office's (ISO) form number CG 20 26 11 85) or equivalent acceptable to ESD. Any property insurance maintained by the grantee shall remain in effect throughout the life of the project. In the event of a casualty or loss insurance proceeds must be applied towards restoration of the project.

B. Procurement

The grantee must substantiate that equipment and/or construction services are procured through a process that is fair and open to competition, guarded against favoritism, and protects the interests of New York State and taxpayers. Construction contractors must possess all qualifications, licenses and permits to engage in the required business as may be required within the jurisdiction where the work specified is to be performed. Costs incurred prior to award may be considered eligible and reimbursed at ESD's discretion; provided, however, that no costs incurred before March 1, 2016 will be eligible for reimbursement.

The grant cannot be used for payments to any firm, company, association, corporation or organization in which a member of the grantee's Board of Directors or other governing body, or any officer or employee of the grantee, or a member of the immediate family of any member of the grantee's Board of Directors or other governing body, officer, or employee of the grantee has any ownership, control or financial interest.

C. Non-Discrimination Policy

ESD's non-discrimination policy will apply. The grantee shall not unlawfully discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, sexual orientation, age, disability or marital status.

D. Minority and Women Owned Business Enterprise/Contractor and Supplier Diversity

ESD is required to comply with and implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 (MWBE Regulations) for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction. In accordance with the requirements of Article 15-A of the New York State Executive Law, all projects awarded funding shall be reviewed by ESD's Office of Contractor

and Supplier Diversity ("OCSD"), which will, where applicable, set minority and women-owned business enterprise ("MWBE") participation goals. Such goals shall typically be included in the award letter or other contemporaneous communication from OCSD with respect to these requirements.

Please note that ESD's agency-wide MWBE utilization goal is 30%. After application approval the project may be assigned an individual contract-specific goal, which may be higher or lower than 30%. In instances where goals are set, grantee will be required to use good faith efforts to achieve the prescribed MWBE goals assigned to the project and must maintain such records and take such actions necessary to demonstrate compliance with Article 15-A of the New York State Executive Law.

E. Methods of Disbursement

Grants will be disbursed on a reimbursement basis upon completion of the project and submission of supporting documentation. Cash payments with associated receipts will not be accepted.

Supporting documentation includes the following:

- Project Summary Report;
- Documentation from the local code enforcement officer stating that construction projects are in compliance with local and State Building Codes, or are exempt from the building code;
- Certificate of Occupancy, if required;
- Invoices and associated paid receipts including, but not limited to, cleared checks, register receipts and credit card receipts for the total project cost;
- Photo-documentation of project elements; and,
- Other supporting documentation as may be necessary in order to verify the successful completion of the project and payment of eligible costs.

F. Tax Responsibilities

In accordance with IRS regulations all grants disbursed will be reported by ESD to the IRS and ESD shall mail a Form 1099 to the grant recipient, at the address provided in the application.

G. Grant Recapture

ESD may require repayment of any assistance received under this program in the following events:

- (i) if an application, including any information provided therewith or thereafter, contains any material misrepresentations or is incomplete;
- (ii) if the assistance was awarded or disbursed in error and the applicant is not entitled to assistance under these guidelines;
- (iii) if the applicant received a payment and did not complete the project as approved;
- (iv) if supporting documentation is not true and complete; and,
- (v) if the applicant leaves the state or otherwise ceases farming within five years of final disbursement of funds. The recapture amount is based on the time that has lapsed between when the grant funds were disbursed and when the transfer occurred. The recapture amount shall be calculated by aggregating the recapture amount for each disbursement of the grant, which in each instance shall be equal to:

- 100% of the disbursed amount if the transfer occurred in the calendar year that the disbursement was made, or in the first full calendar year after the disbursement was made;
- 80% of the disbursed amount if the transfer occurred in the second full calendar year after the disbursement was made;
- 60% of the disbursed amount if the transfer occurred in the third full calendar year after the disbursement was made;
- 40% of the disbursed amount if the transfer occurred in the fourth full calendar year after the disbursement was made;
- 20% of the disbursed amount if the transfer occurred in the fifth full calendar year after the disbursement was made.

In the event of any fraudulent misrepresentations by the applicant, in addition to the recapture of assistance, ESD may pursue other legal remedies and refer the matter to the appropriate governmental authorities for investigation and prosecution.

H. Audit and Control

ESD may conduct site visits and audit applications on a random or specified basis for a period extending to six years after the final disbursement of the assistance to the applicant. ESD reserves the right to contact companies and other federal, state and local governmental agencies to confirm information included, or that should have been included, in the applications.

I. Disclosure of Information

Each applicant must agree to allow:

- (a) the Department of Taxation and Finance to share its tax information with ESD. However, any information shared as a result of this agreement shall not be available for disclosure or inspection under the state freedom of information law;
- (b) the Department of Labor to share its tax, employer or other information with ESD relevant to funding. However, information shared as a result of this agreement shall not be available for disclosure or inspection under the state freedom of information law; and
- (c) ESD and their agents access to any and all books and records ESD may require to monitor compliance.

Except as required by applicable law or regulations, ESD will endeavor to maintain the confidentiality of tax and rent information submitted as part of the application. Notwithstanding the foregoing, such information may be made available to ESD staff and designated individuals that are processing the application and to federal, state or local officials and to auditors evaluating the program and others as ESD may deem to be required in accordance with applicable law and regulations, including judicial orders and subpoenas.

J. Availability of Funds

The disbursement of any grant is explicitly subject to the approval of ESD and the receipt by ESD of a sufficient amount of funds from the State of New York acting by and through the New York State Division of the Budget.

5. Program Amendments

ESD may amend these guidelines from time to time. If changes are made to this solicitation a notification will be posted at: <http://esd.ny.gov/BusinessPrograms/NewFarmersGrantFund.html>. It is incumbent on the applicant to check the website for program amendments and clarifications to these guidelines prior to submitting an application.