

Guidelines

New York State New Farmers Grant Fund



State of New York
Andrew M. Cuomo, Governor

Empire State Development

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Program

The New York Beginning Farmers Fund was enacted in the 2014-2015 state budget (Chapter 55 of 2014) signed by Governor Cuomo on March 31, 2014. The program takes effect on September 27, 2014, and will be known as the *New York State New Farmers Grant Fund* ("Fund"). The 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"), provides grants to support beginning farmers and encourage them to consider farming as a career, resulting in the growth of agribusiness within the state and the concomitant tax revenues for the state.

New York State has allocated \$614,000 to be used to provide grants between \$15,000 and \$50,000 for up to 50% of project costs for beginning farmers who will materially and substantially participate in the production of an agricultural product within a region of the state. Beginning farmers must not have produced an agricultural product, as defined in the Ag & Markets Law¹, for more than ten consecutive years prior to application. Projects are expected to be completed within a two-year contract term.

The following criteria must be met in order to be eligible to apply for funding:

- An applicant must be a commercial farm operation², as defined by these Guidelines, owning or leasing one hundred fifty acres or less located wholly within New York State;
- All owners of the farm operation must not have not produced an agricultural product for more than ten consecutive years;
- All owners of the farm operation must materially and substantially participate in the production of an agricultural product grown or raised on the farm operation;
- Innovative agricultural techniques must be demonstrated including, but not limited to, organic farming, specialty crops, and environmental stewardship techniques and technologies; and,
- The farm operation must be a legally formed business in New York State at the time of application.

Applications from the following entities will not be considered:

- Not-for-profits;
- Those delinquent on federal, state and/or local tax obligations;
- Those subject to any litigation, or 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 with poor credit history.

¹ N.Y. Agriculture and Markets Law § 328(2).

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.

Eligible Use of Funds

The use of grant funds must be directly related to the production of an agricultural product grown or raised on a commercial farm operation including, but not limited to:

- Purchase or lease of machinery and equipment
- Construction or expansion of farm buildings
- Construction or expansion of farm systems such as trellis, drainage, and fencing
- Purchase of supplies such as root stock, seed, and fertilizer

Leases for machinery and equipment will be limited to a maximum term of two years. The applicant must demonstrate the ability to either purchase or continue the lease of the machinery and equipment at the end of the lease term.

Ineligible Use of Funds

Ineligible uses of grant funds include, but are not limited to:

- Costs incurred prior to September 27, 2014
- Purchase or lease of land
- Utility costs
- Taxes
- Debt
- Insurance premiums

Award Requirements

Grant awards may cover up to 50% of approved project costs. The minimum award is \$15,000 and the maximum award is \$50,000. The applicant will be required to contribute a minimum of 10% of the approved project cost in the form of equity. Equity is defined as cash injected into the project by the applicant or by investors, and should be auditable through financial statements or accounts, if so requested. State grant funds may not be used as matching funds. Applicants must provide documentation of sources and uses of matching funds.

In addition to cash equity other eligible sources of matching funds may include, but are not limited to:

- Cash
- Loans
- Federal or local grant funds

The applicant will reimburse ESD for any direct expenses incurred in connection with any grant award it may receive, including costs related to holding a public hearing.

Application Requirements

An applicant must file a completed application including all other required information. A completed application includes, but is not limited to:

- (i) complete application with original signature and all attachments;
- (ii) business plan as required in Section 3 of the application including a complete project budget with sources and uses of funds and project work plan;
- (iii) copy of applicant's NYS Driver's License or other form of identification (U.S. Passport or birth certificate);

- (iv) copy of the applicant's federal and state tax returns for the three most recent years and a copy of all owners federal and state personal tax returns for the three most recent years;
- (v) certificate/letter of incorporation;
- (vi) NYS Minority or Woman-Owned Business Certification Letter (if applicable);
- (vii) resumes for all farm operation owners including complete contact information;
- (viii) demonstration of matching funds including commitment letters;
- (ix) demonstration of financial need;
- (x) documentation of project costs including detailed specifications, scope of services and associated quotes;
- (xi) photocopy of the lease or deed;
- (xii) if property is leased, a letter of support for the project from landowner;
- (xiii) two letters of support for the project commenting on experience and capacity of applicant; feasibility and readiness of project to move forward; and, likelihood that the project will be sustainable and result in the growth of agribusiness within the state;
- (xiv) tax map indicating location of project;
- (xv) plot plans, photos and other visual material that will help describe the project;
- (xvi) for all construction: designs and specifications which must conform with federal, state, and/or local law with applicable certifications, stamps and/or seals;
- (xvii) copy of all permits, certificates and/or approvals obtained for the existing farm operation and those required for the proposed project if obtained; and,
- (xviii) original voided check for the applicant's bank account imprinted with the business name and address.

ESD may require additional or alternative documentation as deemed necessary.

Application Review

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

- eligibility
- demonstration that the proposed project will result in the growth of agribusiness and resultant tax revenues within the state;
- a contribution of at least the minimum cash equity;
- evidence of secured matching funds;
- substantiation of financial need;
- demonstration of project feasibility and readiness; and,
- the experience and capacity to advance the project.

Procurement

The applicant must substantiate that purchase of supplies, equipment or construction of farm buildings or farm systems 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. The applicant must receive ESD approval before purchase or contracting for any such items. However, costs incurred prior to award and after September 27, 2014, may be considered eligible and reimbursed at ESD's discretion.

All designs and specifications for construction projects must conform with federal, state, and/or local law with applicable certifications, stamps and/or seals. Construction contractors will 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.

Methods of Disbursement

Applicants will be reimbursed for eligible costs upon substantial documentation of completion of the project. Final payment will not be disbursed until the project is complete and all supporting documentation is received. Prior to disbursement of grant funds the following information must be submitted: documentation of project completion including a statement of goals and outcomes and measurements of success; certified as-built plans; invoices and associated paid receipts including, but not limited to, cleared checks, register receipts and credit card receipts; photo-documentation; and, such other supporting documentation as may be necessary in order to verify the successful completion of the project and payment of eligible costs.

Cash payments and receipts will not be accepted.

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.

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.

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.

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, any tax 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.

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.

Non-Discrimination and Contractor and Supplier Diversity

ESD non-discrimination policy will apply. The applicant 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.

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 23%. After application approval the project may be assigned an individual contract-specific goal, which may be higher or lower than 23%. In instances where goals are set, applicant will be required to use good faith efforts to achieve the prescribed MWBE goals assigned to this 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.

Additional Information

The applicant can access the application form and instructions, these guidelines, any amendments to these guidelines and additional information about the program on both the ESD and Ag & Markets web sites.

www.esd.ny.gov

www.ag.ny.gov

Additional information can be obtained by writing to Bonnie Devine at:
nyfarmfund@esd.ny.gov

Application Submission

Applications must be postmarked by January 28, 2015. Applications postmarked after such date and incomplete applications will be rejected. 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 four copies of the completed application and all attachments in the following forms:

- Three paper copies – One signed original and two copies
- One compact disk containing the complete application and attachments in PDF format).

Mail all materials to the following address:

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

Applications must be postmarked by January 28, 2015