RULES OF
GEORGIA DEPARTMENT OF
AGRICULTURE

CHAPTER 40-33
GRANT AND FUNDING PROGRAMS

TABLE OF CONTENTS

Subject 40-33-1 Georgia Farmland Conservation Fund Program

40-33-1-.01 Program Purpose and Establishment
40-33-1-.02 Definitions
40-33-1-.03 Project Proposal Timing
40-33-1-.04 Project Proposal Review and Referral
40-33-1-.05 Awarded Projects
40-33-1-.06 Program Reporting

Subject 40-33-1
Georgia Farmland Conservation Fund Program

40-33-1-.01 Program Purpose and Establishment

(1) Pursuant to the authority vested in the Georgia Department of Agriculture under the Georgia Farmland Conservation Act, O.C.G.A. § 44-10-40 et seq. and O.C.G.A. § 2-2-7, the purpose of this Subject is to establish the standards, practices, procedures, and requirements for the operation of the Georgia Farmland Conservation Fund Program and applications for and disbursement of funds therefrom.

(2) This Subject is adopted under the direction and advice of the Georgia Farmland Advisory Council.

Statutory Authority: O.C.G.A. § 2-2-7; O.C.G.A. § 44-10-40 et seq.

40-33-1-.02 Definitions

As used in this Subject, the term:

(1) "Act" means the Georgia Farmland Conservation Act, O.C.G.A. § 44-10-40 et seq.

(2) "Agricultural conservation easement" means a conservation easement that, in accordance with the provisions of Article 1 of Chapter 10 of Title 44, the Georgia Uniform Conservation Easement Act, imposes limitations or affirmative obligations, the purpose of which include assuring the availability of real property for agricultural uses or the retention or protection of natural, scenic, or open-space values of real property.

(3) "Agricultural land" means land capable of use in the production of agricultural crops, livestock or livestock products, poultry or poultry products, milk or dairy products, or fruit or other horticultural products, but does not include any land zoned by a local governmental unit for a use other than and nonconforming with agricultural use.

(4) "Commissioner" means the Georgia Commissioner of Agriculture.

(5) "Conservation easement" shall have the same meaning as set forth in O.C.G.A. § 44-10-2.

(6) "Costs of acquisition" means all direct costs of activities, including, but not limited to, appraisals that are required by applicable state laws and local ordinances or policies in order to convey an agricultural conservation easement in qualified farmland to a qualified holder; provided, however, that such costs shall not include any costs for services provided in violation of Chapter 40 of Title 43 of the Official Code of Georgia Annotated.

(7) "Council" means the Georgia Farmland Advisory Council.

(8) "Department" means the Georgia Department of Agriculture.

(9) "Fund" means the Georgia Farmland Conservation Fund.

(10) "Program" means the Georgia Farmland Conservation Fund Program.

(11) "Project proposal" means any application seeking moneys from the Georgia Farmland Conservation Fund.

(12) "Qualified easement holder" means an entity that acquires or proposes to acquire an agricultural conservation easement, whether through purchase, donation, or transfer, and that is:

(a) a federal agency, a state agency, a county, or municipality, or

(b) a nonprofit organization that is exempt from federal income taxation under Section 501(a) of the Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code.

(13) "Qualified farmland" means agricultural land in undeveloped areas or agricultural land that has been developed only to the extent consistent with agricultural production, including production of row crops, livestock, nurseries, orchards, or pastures.

Statutory Authority: O.C.G.A. § 2-2-7; O.C.G.A. § 44-10-40, et seq.

40-33-1-.03 Project Proposal Timing

(1) Project Proposal Timing. During each year in which the program operates and the fund contains sufficient money, the Department will accept project proposals submitted by qualified easement holders seeking a matching grant to fund the purchase of agricultural conservation easements on qualified farmland or the costs of acquisition related to the purchase of agricultural conservation easements approved by the program.

(a) Unless otherwise announced by the Department, the calendar for the annual submission, review and assessment, and implementation of project proposals will be as set forth below:

1. April – The Department will confirm the year's funding cycle timing;

2. May through August – The Department will accept project proposals for the current funding cycle;

3. September – The Department will review and assess project proposals submitted for the funding cycle and refer and recommend project proposals to the Council;

4. October – The Council will meet to review and approve or disapprove referred and recommended project proposals. Selected applicants must enter into a Grant Agreement with the Department; and

5. October through Fiscal Year End – The Department will disburse funds to applicants with project proposals reviewed by the Department and approved by the Council.

(b) The Department, in consultation with the Council, may announce and implement an additional funding cycle in a given year, as needed to effectuate the purpose of the Act.

Statutory Authority: O.C.G.A. § 2-2-7; O.C.G.A. § 44-10-40 et seq.

40-33-1-.04 Project Proposal Review and Referral

(1) Project Proposal Applications. Each year during which the program operates, the Department will accept project proposals submitted during an announced application period. The Department will review each project proposal, make a prospective determination whether the project proposal meets the minimum criteria in the Act, and score the proposal based on the priority factors set forth in this rule. The Department will then submit its review and recommendation to the Council so that the Council may approve or reject the project proposal.

(a) Matching grants awarded by the program must fund only:

1. the purchase of agricultural conservation easements on qualified farmland in Georgia by qualified easement holders; or

2. the costs of acquisition related to the purchase of agricultural conservation easements by a qualified easement holder and approved by the program.

(2) Form. Project proposals must be submitted in a form designated by the Department. The Department will publish the project proposal application form on its website: https://agr.georgia.gov/

(a) The Department will not consider incomplete project proposal applications. The Department may, in its discretion, alert an applicant to deficiencies in the applicant's project proposal and allow timely amendment to conform to the Department's application form within an announced application period. The Department will not evaluate a project proposal requiring revision until the applicant submits any required amendments to its project proposal. If an application is incomplete after the application deadline, the applicant must reapply during the next funding cycle.

(b) Applicants must submit project proposal applications electronically, as specified on the Department's website.

(3) Project Proposal Review. When evaluating project proposals, the Department must consider the following criteria.

(a) Minimum Criteria. The Department must not recommend any project proposal for Council approval unless the project proposal meets the following minimum criteria.

1. Matching Funds to the Qualified Easement Holder. Project proposals must request disbursement from the fund of less than or equal to 50% of the purchase value of an agricultural conservation easement on qualified farmland and its cost of acquisition.

2. Form of Agricultural Conservation Easement. The legal form of all agricultural conservation easements proposed for funding must be of maximum legal duration, incapable of assignment or enforcement by a third party without the express written consent of the landowner, and in alignment with existing federal and local programs to maximize the potential for matching funds.

3. Primary Purpose. A project proposal must have the advancement of farmland conservation and the support of active farming and food production in Georgia as its primary purpose.

(b) Priority Factors. When evaluating project proposals that meet each of the minimum criteria set forth in the Act and this rule, the Department will further score project proposals on the extent that the project will:

1. Protect agricultural lands susceptible to development, subdivision, and fragmentation – 20 points maximum;

2. Protect farmland in active or planned cultivation – 20 points maximum;

3. Prevent development or fragmentation that would result in farmland loss – 20 points maximum;

4. Support transition of affordable farmland to next-generation farmers – 20 points maximum;

5. Leverage local, federal, or private funding, taking into account whether such funding includes a match requirement – 10 points maximum;

6. Support conservation priorities, including, but not limited to, protection of habitat, water quality, watershed conservation, climate resiliency, local conservation plans, and public viewshed – 10 points maximum;

7. Preserve or enhance soil quality – 10 points maximum; and

8. Create or further enhance compatibility with existing military installations – 10 points maximum.

(c) Referral to the Council. The Department will submit its evaluation of recommended project proposals to the Council. The Department will indicate for the Council whether a given project proposal meets the minimum program criteria. The

Department will also provide the Council with its evaluation of priority factors in a proposed project.

1. The Council will consider and approve or disapprove recommended project proposals referred to and recommended by the Department at a meeting where at least three-fifths of its members are present. Approval of a project proposal requires a simple majority vote of the members of the entire Council then in office.

(4) Funding Limitations. Should the value of project proposals recommended by the Department to the Council exceed the total value of the fund in a given year, the Council retains discretion to approve select project proposals for funding. Recommended project proposals not approved for funding by the Council in a given funding cycle may choose to reapply in subsequent funding cycles. The Council will consider the relative needs of the proposed projects and determine the proportion of available funds to be allocated for each eligible project.

Statutory Authority: O.C.G.A. § 2-2-7; O.C.G.A. § 44-10-40 et seq.

40-33-1-.05 Awarded Projects

(1) Project Agreements. Applicants whose project proposals are approved for funding by the Council must execute a Grant Agreement with the Department and comply with all its provisions, including, but not limited to, maintaining complete financial records for all activities related to the project and submitting quarterly progress reports. Grant Agreements will define, at least, the recipient's and Department's responsibilities and obligations, the project period, the project scope, and grant amount. The approved project proposal will become part of the Grant Agreement.

(a) When the Council approves funds for the purchase of agricultural conservation easements, grantees must submit the below documentation to the Department and Council no later than seven days before the scheduled closing date of the easement purchase. If such documentation is satisfactory to the Department and the Council, the Department shall wire the grant funds allocated for the easement purchase to the grantee. Required documentation includes:

1. The final closing statement, which shall reflect the sources and amounts of matching funds and the proper commitment of the program funds to the purchase of the agricultural conservation easement; and

2. The final draft conveyance instrument and all exhibits thereto that will be used to convey the agricultural conservation easement to the grantee.

(b) When the Council approves funds for the costs of acquisition of an agricultural conservation easement other than closing costs, grant funds shall be distributed on a reimbursement basis pursuant to the Grant Agreement. All reimbursement requests will be reviewed by the Department prior to payment by the Department. Grantees will not be reimbursed for any costs of acquisition incurred prior to the execution of the Grant Agreement other than an appraisal, survey, or title search required to prepare a project proposal.

(2) Project Completion. Applicants whose project proposals are approved for funding by the Council must complete the project within the State of Georgia fiscal year in which the project proposal is approved by the Council, unless the term of the Grant Agreement is extended pursuant to a written amendment.

(3) Inspections. The Department or Council may conduct site inspections for any awarded projects before the project begins, during the project implementation timeline, and after the project's completion.

Statutory Authority: O.C.G.A. § 2-2-7; O.C.G.A. § 44-10-40 et seq.

40-33-1-.06 Program Reporting

(1) By January 1 of each year, the Department shall prepare an accounting of the moneys expended pursuant to the program during the most recently completed fiscal year and provide that report to the Office of Planning and Budget, the House Budget and Research Office, and the Senate Budget and Evaluation Office.

Statutory Authority: O.C.G.A. § 2-2-7; O.C.G.A. § 44-10-40 et seq.