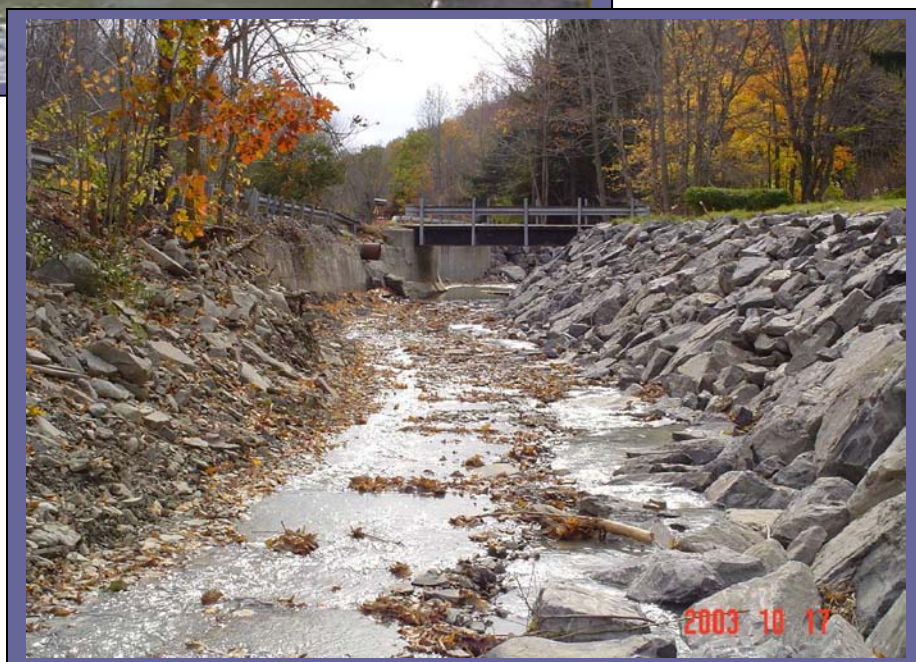




United States
Department of
Agriculture

Emergency
Watershed Protection (EWP)
Program

Sponsor's Guide



Syracuse, NY
June 2011

USDA-NATURAL RESOURCES CONSERVATION SERVICE
EMERGENCY WATERSHED PROTECTION (EWP) PROGRAM

SPONSOR'S GUIDE

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INTRODUCTION

The USDA - Natural Resources Conservation Service (NRCS) provides technical and financial assistance to communities for restoring watersheds ravaged by natural disasters. Through the Emergency Watershed Protection (EWP) program, NRCS helps safeguard people and property following natural disasters such as floods, fires, wind storms, earthquakes, and drought. Measures eligible for assistance include repairing existing channels and protecting streambanks. This assistance protects homes, businesses, and other properties from further damage of subsequent storms.

Local sponsors, such as a city, county, or conservation district, may apply for assistance. NRCS provides financial assistance up to 75 percent of costs for installing eligible emergency treatments. Sponsors of EWP projects determine priorities for emergency assistance and coordinate work with other federal and local agencies. They are responsible for obtaining the necessary permits, providing 25 percent cost-share, and providing for the operation and maintenance of completed emergency measures. Sponsors may provide their share of construction costs in the form of cash or in-kind services, such as material, labor or equipment.

In addition, we have alternative procedures that give responsibility for engineering surveys, design, contract administration, and construction inspection to the sponsor for which they can be reimbursed up to 10 percent of the NRCS' share of the actual construction costs (or 7.5 percent of the total cost of construction). Use of these procedures has been very successful in accomplishing a large volume of EWP work in other states. Generally this process has worked well, and as sponsors become experienced in using these procedures, the problems have lessened. However, questions concerning eligibility, contracting, and procedural methods frequently arise, especially from sponsors new to the program.

This booklet is intended to provide information that will answer many frequently asked questions and provide additional guidance to those involved in the EWP program.

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REINVENTING NEW YORK'S EMERGENCY WATERSHED PROTECTION PROGRAM

(An Alternative Approach)

USDA Natural Resources Conservation Service

Syracuse, NY

New York NRCS has been faced with an unprecedented workload, reduced staff, in addition to work created by Emergency Watershed Protection (EWP).

In order to meet the needs of all NRCS customers, New York NRCS is implementing changes in the administration of EWP. As an alternative in most emergencies, NRCS will become a funding source that provides some technical and administrative support. This will allow Sponsors to complete their projects more quickly and have more control in design and construction.

Plan features

- NRCS pays 75 percent of the approved construction cost.
- Sponsor completes engineering surveys, design, contract administration, and inspection.
- NRCS will be available for technical support and answering questions about the EWP process.

Plan benefits

- Sponsor will control pace of contracting and construction process. However, contracts will be completed within time limits established in agreements.
- Sponsor will have more control over contracting, design, and construction. Sponsor will be able to receive reimbursement for the design, contracting, and construction inspection costs up to 10% of the NRCS cost of installation.

- 75 percent construction costs will be reimbursed by NRCS, freeing up sponsor resources for other community or organization needs.

How will the plan work?

The following basic steps outline the new EWP process.

1. Sponsor submits a formal request to the NRCS state conservationist for EWP assistance.
2. NRCS and the Sponsor will complete Damage Survey Reports (DSRs) for sites damaged due to the disaster event.
3. NRCS will transmit DSRs to the sponsor for review. The Sponsor should identify the sites to be completed and return all DSRs to NRCS. Make sure to include a completion deadline and prioritization of projects selected. If NRCS does not receive a completed DSR for a particular site within 10 working days, they will assume no work is to be done on that site.
4. NRCS will prepare a cooperative agreement for DSRs the Sponsor has selected. Sign and return the agreement along with landrights assurances to NRCS.
5. If approved, NRCS will return a signed cooperative agreement that will include the approved dollar amount.
6. Sponsors should arrange for engineering services and/or contract administration services from their own qualified staff people or an outside source.

7. On complex sites, NRCS will ask for a pre-design meeting with the responsible engineer to discuss the overall approach to the project.
 8. All repair plans (except debris removal) must be signed by a New York State registered professional engineer or approved by NRCS. A copy of the final design, contract specifications, drawings, and a quality assurance plan must be provided to NRCS before prior to solicitation of bids.
 9. Each Sponsor shall follow the contracting rules and regulations that apply under federal and New York law.
 10. Provide NRCS a copy of the completed contract award document and bid abstract.
 11. Pre-construction meetings with NRCS participation will be held.
 12. Administer construction and perform the required inspection. Provide NRCS a set of "As-Built" drawings.
 13. NRCS will visually inspect the site when repairs are complete. If repairs are according to specifications, the NRCS liaison officer will certify form SF-270 submitted by the Sponsor.
 14. The National Finance Center will issue a check (direct deposit) within 14 days after NRCS receives and processes form SF-270 and supporting documents.
- NRCS may be able to help find resources for sponsors that cannot afford to hire help or do not have staff available to perform design, contracting, construction, or inspection services. Follow these two steps if this assistance is needed.
1. Send a letter with the returned DSRs stating why these services cannot be provided.
 2. NRCS will then contact the sponsor to make arrangements for technical and administrative assistance.

For more information, contact your local NRCS field office.

EWP COOPERATIVE AGREEMENTS, AMENDMENTS, AND PAYMENTS: (EWP ALTERNATIVE APPROACH)

Policies, Procedures, and Other Things You Should Know

USDA Natural Resources Conservation Service

Syracuse, NY

Use of Damage Survey Reports (DSR's)

Information on NRCS DSRs will be used in EWP agreements. Because of this, DSR cost estimates will be verified by NRCS field engineers prior to being used for EWP agreements.

Cooperative Agreements and Amendments

Cooperative agreements will list DSRs for the sites the Sponsor selects for completion.

Sites must be completed within 7 months.

Once a Sponsor has entered into a cooperative agreement with NRCS, additional sites and dollars will be obligated to that Sponsor through amendments to the original cooperative agreement. Generally, there will be only one cooperative agreement executed with each Sponsor.

In general, amendments will not be needed to add dollars to individual sites covered within an agreement, as long as the total dollars available under the agreement are adequate to pay for sites being contracted. However, Sponsors should keep in mind that earlier sites could deplete funds in the agreement that will be needed for later sites covered in that same agreement. In that case, an amendment for additional dollars must be approved by NRCS before additional contracts are executed. Amendments will also be required if contract modifications cause the cooperative agreement dollars to be exceeded.

Sponsors should keep NRCS informed if engineering estimates or contracted amounts

exceed those described in the cooperative agreement and amendments. This will be helpful when discussing subsequent amendments for new sites or additional dollars and will also help NRCS expedite processing of reimbursement payments.

Similarly, contracts for sites not described in the Sponsor's cooperative agreement or subsequent amendments are the responsibility of the Sponsor, and expenses related to those sites will not be reimbursed by NRCS.

What Sponsors Will Need to Provide to NRCS

The file maintained by the NRCS contracting officer for each cooperative agreement will include the following:

- A. Executed cooperative agreement and subsequent amendments.
- B. Copies of landright assurances with attorney's opinion, as necessary. (Examples can be provided upon request.)
- C. Copies of contracts and any modifications as they are developed and executed by the Sponsor.
- D. Copies of engineering plans signed by a registered professional engineer or approved by NRCS as they are developed by the Sponsor. (For debris removal sites, a sketch and cost estimate signed by the Sponsor or their assignee will suffice.)
- E. Copies of a Quality Assurance Plan (QAP) that will outline the technical and

administrative expertise required to ensure the works of improvement are installed in accordance with plans and specifications (items to be inspected, frequency and timing of inspection, record keeping procedures to be used, inspection procedures to be used, etc.)

- F. Copies of the SF-270's and supporting documentation.
- G. Copies of correspondence related to engineering, contract administration, or construction for DSRs covered in the cooperative agreement.

What Sponsors Should Keep on File

Since EWP Sponsors are subject to provisions of the Single Audit Act (OMB Circular A-128, April 12, 1985), a file should be maintained on each EWP-funded contract for a period of three years after the project is completed. If the project is the object of litigation that begins before the end of the three-year period, records will need to be maintained until the end of the litigation or the three-year period, whichever is longer.

These files should include all items listed above. They should also include documentation of activities performed or hired related to survey, design, contract administration, and inspection (i.e., job diaries, payroll records, operation and maintenance records, etc.).

Getting Reimbursed

Sponsors requesting reimbursement for EWP-approved repair costs should submit a completed form SF-270, and include documentation for any contract that has not been previously submitted. Documentation will include, as a minimum, a certification of completion signed by the sponsor and the NRCS liaison officer and invoices from the contractor.

Sponsors should submit no more than one form SF-270 for each project agreement to NRCS per month. Form SF-270 may include reimbursements for more than one contract, if necessary. Sponsors should receive payment in approximately 14 days from the date a proper billing is received by NRCS. A proper billing consists of form SF-270 and supporting documents.

USING YOUR PEOPLE AND EQUIPMENT TO REPAIR DAMAGE:

Reimbursement Guidelines for Emergency Watershed Protection Program Sponsors

USDA Natural Resources Conservation Service

Syracuse, NY

The Emergency Watershed Protection (EWP) program has been used in hundreds of locations across New York to assist local communities repair damage from sudden watershed impairments.

Most EWP technical and administrative work in the past has been completed directly by USDA - Natural Resources Conservation Service (NRCS), formerly the Soil Conservation Service. Recently, NRCS has modified the EWP program delivery process to provide an alternative for reimbursement to local units of government (Sponsors).

Sponsors may elect to use their own personnel and equipment to perform EWP emergency repair work for which 75 percent of approved construction costs can be reimbursed. In some cases equipment may be rented, with or without operators, to supplement their own work force. This arrangement is referred to as "force account" work.

This fact sheet will provide EWP project sponsors with information on the types of reimbursable expenses. It will also provide guidance on allowable expenses for reimbursement of labor, machinery, and material costs.

General Guidelines

Repairs on sites completed on force account basis must:

1. meet all regular criteria for assistance under the EWP program,
2. be sponsored by a unit of government,

3. be cost-effective,
4. be a result of a declared disaster event,
5. result in public benefits,
6. have been previously described on approved DSRs,
7. not begin before the execution of a cooperative agreement with NRCS.

Additional general guidance is provided on the fact sheets entitled "Reinventing New York's Emergency Watershed Protection Program" and "EWP Cooperative Agreements, Amendments, and Payments." These fact sheets have some specific references to work being handled by contracts between local sponsors and construction contractors, but much of the information is also applicable to force account work.

Reimbursable Items and Allowable Costs

Purchased materials may be reimbursed as part of EWP force account projects. These materials are those that are a direct part of the repair. It is anticipated that these materials will generally be limited to riprap, geotextile, and seeding and mulching. If grout, pipe, or other materials are required for the repair, it should be documented as part of a pre-design conference participated in by an NRCS representative.

Unit costs for these materials will be compared against those considered reasonable by NRCS and be based on previous EWP work. All requests for reimbursement of material costs must be supported by receipts or invoices that

detail quantities and unit costs used for each site.

Labor and equipment costs for repair work will be reimbursed on the basis of actual costs as shown on an invoice that is certified by an authorized representative of the sponsor. These charges must be supported for audit purposes by time sheets, job diaries, and receipts or invoices for any expenses associated with labor or equipment operation.

Reimbursable labor costs may include both wages and benefits. Reimbursable equipment costs may include, but are not limited to, fuel, lubricants, transport, equipment rental, and

minor incidental repairs that are directly attributable to work done at the EWP repair site.

Authorized Technical Services associated with survey, design, plan preparation, and construction inspection will be reimbursable up to 10% of the NRCS cost of installation.

Questions related to the use of Force Account Agreements should be directed to the local NRCS field office.

**USDA NATURAL RESOURCES CONSERVATION SERVICE
EMERGENCY WATERSHED PROTECTION (EWP) PROGRAM
(EWP Alternative Approach)**

ADMINISTRATIVE READINESS QUESTIONNAIRE

The purpose of this questionnaire is to help determine if a sponsor is adequately equipped to administer EWP funds. If an applicant is not equipped, the applicant may be asked to retain the services of a qualified organization to assist in administering EWP funds. Please complete the entire questionnaire as candidly as possible. A copy of this questionnaire must be returned to NRCS (address below) before an EWP cooperative agreement will be executed with a sponsor.

USDA/NRCS
State Office
ATTN: Admin./Contracting Officer
441 S. Salina Street, Suite 354
Syracuse, NY 13202

Sponsor: _____
(Name and Mailing Address)

Phone: _____ FAX: _____

Name and Title of Person Completing Questionnaire:

- | | _____ | _____ |
|----|---|-----------|
| | Please Type or Print | Signature |
| 1. | Have you or your staff administered grants or loans from other federal programs in the past? _____
If yes, please list the federal agencies involved: _____ | |
| 2. | Have you or your staff previously:
_____ Obtained performance bonds from a contractor performing work under a contract funded totally or in part with federal dollars,
_____ Completed actions in compliance with a Free and Open competition clause in a contract funded totally or in part with federal dollars,
_____ Prepared a contract solicitation package for a project that included federal assistance funds and was in accordance with New York State regulations, or
_____ Incorporated and monitored actions related to federal environmental standards in contracts funded totally or in part with federal dollars. | |
| 3. | Are you or your staff personally familiar with federal requirements related to:
_____ Project fund financial management and audit requirements,
_____ Real property acquisition or easements,
_____ Bid letting procedures,
_____ Equal Opportunity and Civil Rights, and
_____ Contract administration. | |
| 4. | Does your organization have a financial management system in place that meets the requirements of 7 CFR 3016.20? _____ | |
| 5. | Does your organization have procurement standards in place that meet the requirements of 7 CFR 3016.36? _____ | |

If you answered "no" to more than two of the items listed above, please provide the following information on the organization that will be providing administration assistance to you:

Name and Mailing Address of Organization: _____

Phone: _____ FAX: _____

Contact Person: _____

Does your organization have capabilities of accepting electronic funds transfer? _____ 8/97

All programs and services of the Natural Resources Conservation Service are offered to everyone on a non-discriminatory basis without regard to race, color, national origin, religion, sex, age, marital status, or handicap.

DAMAGE SURVEY REPORTS

Damage Survey Reports (DSRs) are forms used to document damage caused by a natural disaster, and repair methods and costs required to correct the problem. It is important to complete the forms as completely and accurately as possible since this is the document that is used to justify the expenditures of EWP funds. The costs and benefits listed are estimates. They should be reasonable and based on best professional judgment, but it is not expected that an excessive amount of time be expended completing the forms. Generally, DSRs can be completed on-site based on conditions that are observed with little or no surveys or other measurements. A data dictionary and example completed DSR form are included.

Listed below are some additional tips for completing DSRs:

- (1) DSR NO. - Generally a DSR should be completed for each site that can be isolated. In some instances, however, it is appropriate to group several locations into one DSR. (EXAMPLE: A one-half mile stretch of road having ten separate locations where severe streambank erosion has occurred could be grouped into one DSR. On the Site Plan, individual locations could be shown as Site A, Site B, etc., and costs calculated for each location. The summary of the costs for the individual sites would then be shown on the DSR.)

DSR numbers should be a short abbreviation of the sponsor name and site number. (EXAMPLE: Friendly County, Site No. 1 would be written FRND-01) Sometimes the calendar year will also be included, (FRND-01-99). Do not reuse the numbers that were assigned to previous events because this could cause confusion in record keeping.

- (2) LOCATION MAP – Generally a copy of the county road map with the site pinpointed on the map is sufficient. The site location should be shown or described well enough that a person not familiar with the site could locate it on the ground.
- (3) SITE PLAN – Provide a simple sketch showing the damaged area and its proximity to threatened structures. It should also include a description or sketch of the proposed repair. The site plan should agree with and compliment the ENGINEER'S COST ESTIMATE.

BLANK DSR FORMS ARE AVAILABLE FROM NRCS FIELD OFFICES.

DATA DICTIONARY FOR DSR FORM
SUMMARY PAGE

Form ___-PDM-4 - Insert your official state abbreviation, i.e. NY.

DSR NO. - The official sequential number of the DSR as determined by each state. Other items in block are to be completed by approving official.

Sponsor Name - Name of the sponsor, i.e. Albany County SWCD.

Site Name or Landowner - Name of Landowner or other name which describes the site.

Address - No., Street, RR Box, Town, State, and Zip Code of the sponsor.

County - Enter name of the county.

Priority No. - Enter the priority of site for treatment. This need not be filled out until all sites are inventoried.

Lat. - Latitude Coordinates.

Long. - Longitude Coordinates.

Sect. - Section number when applicable.

Twp. - Township name when applicable.

Range - Range number when applicable.

Cong. Dist. - Congressional District.

Drainage Name - Name of stream or river where the damaged area is located.

Reach - Indicate the reach name or number, i.e. upper, middle, lower; A, B, C; 1, 2, 3 (only if appropriate).

Describe Damage - Briefly describe the damage, which has occurred, including an estimate of quantities (linear feet, cubic yards, etc.), if appropriate.

EVALUATION FACTORS:

Threat to Life and/or Property - Indicate yes or no and how many people, homes, businesses, bridges, etc., are affected.

New Hazard Created by this Event - Indicate yes or no and what the hazard consists of.

Multiple Beneficiaries - Indicate yes or no and any remarks which might be appropriate.

Limited Resource Area - Indicate if the area qualifies for this designation.

Economically Defensible - Indicate yes or no and whether the benefit/cost ratio is greater than 1.0/1.0. Does not have to be yes.

Socially Defensible - Indicate yes or no and what main factors were considered: i.e., elderly persons, disabled persons, limited resource persons, etc. Does not have to be yes.

Environmentally Defensible - Indicate yes or no and the main factors. Does not have to be yes.

Overall Defensible - Indicate yes or no and why. Although some of the above factors may not be defensible, the combined beneficial effects exceed the adverse effects of the proposed project action. This must be yes to proceed with construction.

Technically Sound - Indicate yes or no and indicate why, i.e. meets NRCS standards and specs, approved by an NRCS engineer with adequate approval authority or a professional engineer

ALTERNATIVES CONSIDERED:

Floodplain Easements - How many acres were considered.

Nonstructural Measures - Type of consideration given and what practices.

Structural Measures - Type of structures considered.

Other (Describe Briefly) - If other alternatives were considered, briefly describe them.

No action – Fill in for CO-01 only.

PROPOSED TREATMENT:

Describe the Selected Alternative - Briefly describe the EWP treatment, which will be provided, giving quantities of each practice.

Construction Cost of Emergency Work - Total estimated cost of the measure to be installed (include federal and local costs).

REVIEW/APPROVAL: This block is reserved for the state conservationist's representative to sign off that the site is eligible for assistance. It should be the last thing accomplished.

ECONOMIC EVALUATION

Properties Protected (private) - Land improvements and/or associated goods or services, protected by project measures, where the rights are held by an individual and that individual can exclude others from its use. Private property includes homes, fencing, roads, land, and other infrastructure associated with the land.

Properties Protected (public) - Land improvements and/or associated goods or services, protected by project measures that is dedicated to serve or be used by the public [i.e. county, state, and federal roads and highways, associated bridges and culverts, public utilities, recreational facilities, etc.].

Business Losses - Associated business goods and services impacted by watershed disaster impairments [i.e. increased transportation cost, flood damage that directly impairs production or delivery of service (net production or losses)].

Other - Describe any other damages not listed in the above categories.

Replace Cost or value - Cost of replacing the impaired property, goods or services, or market value of homes, business buildings, and similar structures.

Repair Cost or Damage - Cost to return the impaired property, goods, or services to pre-event condition or value.

Damage Factor - A coefficient (as determined by the interdisciplinary team) that indicates the degree of damage reduction to a property that is attributed to the effect of the proposed emergency measures.

Near Term Damage Potential - The present value of potential economic benefits associated with emergency project measures. Simply: Replacement or Repair Cost times the Damage Factor.

Total Near Term Damage Reduction - Total damage reduction of the proposed emergency measure.

Remarks - Use this section to record any pertinent information, which will assist in supporting the case for taking action on this site.

SOCIAL EVALUATION

POTENTIAL IMPACT ON:

Schools, etc. - Check the appropriate column and add any pertinent information that would be relevant in making a decision as to eligibility. There may be situations where nothing is checked in this category.

OTHER EFFECTS:

Loss of Home, etc. - Check the appropriate column and add any pertinent information that would be relevant in making a decision as to eligibility.

BENEFICIARIES:

Race - How many of each ethnic group is affected by the damage at the site.

Est. Median House Value - Check the appropriate column and add any pertinent information that would be relevant in making a decision as to eligibility.

Est. Subgroup Per Capita Income - Check the appropriate column and add any pertinent information that would be relevant in making a decision as to eligibility.

REMARKS: Use this section to expand on anything from the above categories or to provide other pertinent information that would help the decision-makers and/or designers.

ENVIRONMENTAL EVALUATION

Special Notes: (1) For EWP work the "Without Project" column will not be utilized. (This form is also used in the CO-01 program.) The storm has destroyed whatever was there and if the site is eligible, EWP funds will be used to restore the site.

(2) Place the appropriate +, -, or N/A in the short term and long term boxes and any remarks as may be needed based upon the following:

Prime/Unique Farmland - Note the number of acres effected. [Ref. 310-GM-403].

Change In-Land Use - What change, if any, in-land use will occur as a result of the measure(s) installed.

Soil Erosion - Are there consequences of not repairing the site?

Riparian Areas - These are ecosystems that occur along watercourses or water-bodies. Is the damage area in a riparian area? [Ref. 190-GM-411].

Soil Condition - Note any conditions which might cause problems.

Surface Water Quality - Note any water quality problems before or after implementation. Obviously turbidity will be a problem during construction (short term).

Coastal Zone Mgt. Areas - If in a Coastal Zone, what effect will the measure have on the saline ecosystem.

Wild and Scenic Rivers - Is this stream/river listed. [Ref. Field Office Technical Guide, Sect 1].

Special Aquatic Areas - Specify the details of the area.
[Ref. EPA 404(b)(1) 230.3 & 230.10].

Air Quality - Short-term pollution from equipment exhaust.

Vegetation Alteration - What type vegetation, if different from before the event.

Floodplain Management - Note if there are any floodplain regulations or laws prohibiting development. [Ref. 190-GM-410.25].

Wetlands - What type and size. If mitigation will be required, note details in the remarks section. [Ref. 190-GM-410.26].

Fish and Wildlife Habitat - What type habitat will exist compared to before the event?

Threatened and Endangered Species - If species are known to be in the areas, what species are they and what type habitat is involved at the site. [Ref. 190-GM-410.22(b)].

Cultural Resources - Specify type, if area is known to have them, and whether any are noted at the site. [Ref. 420-GM-401.601].

Aesthetics - Will the work installed detract from the landscape's attractiveness?
[Ref. 190-GM-410.24].

Natural Areas - Land or water units where natural conditions are maintained insofar as possible. Note type and size. [Ref. 190-GM-410.23].

Other - Note any other key environmental factors that are not covered above but could be critical to the eligibility and/or implementation of the measure.

ENGINEER'S COST ESTIMATE

Measure Category - General category of measure.

Planned Measures - Indicate the practice number, if appropriate, and practice name. All practices needed to ensure the work will accomplish its purpose should be included in this column.

Units - Use standard units of measure for the particular practice planned.

Units Needed - Fill in the number of units that will be necessary to install in order for the practice to function as planned.

Unit Cost - Enter the cost of installing a single unit of the practice.

Construction Costs - Enter the estimated cost for the purchase of any materials and labor needed to install the indicated number of units planned. Ensure that all related costs (mobilization, dewatering, etc.,) are included in the final estimated costs.

TEAM RECOMMENDATIONS

Comments - This section should be used to indicate any special problems that may exist and should be noted during design, construction, or installation. Add any additional info that might help to justify the proposed action, whether it is go ahead or not. Note the need for any appropriate permits needed and who the team may have consulted about them.

CERTIFICATION:

Blanks - Check the appropriate spaces.

Team Members - Each team member should sign indicating that the information presented is correct. Everyone having input is to sign the form.

CONCURRENCE:

Sponsor Representative - This form is to be reviewed and signed by the person designated by the Sponsoring Local Organization to ensure that the landowners are represented in the process.

NRCS Representative - Upon review of this form, the person designated by the state conservationist shall sign, indicating that the form has been reviewed and correctly represents conditions at the site.

FREQUENTLY ASKED QUESTIONS RELATED TO THE NRCS EWP PROGRAM

1. **Q How do we request EWP help and how soon do we need to ask for help after the disaster event?**

A A sponsor can apply for EWP help at any NRCS office. The request should be as soon as possible after conditions permit access to the damaged areas, but no later than 10 days after the storm event for exigency sites and 60 days for nonexigency sites.
2. **Q Can EWP funds be used on a non-Presidential-declared disaster?**

A Yes.
3. **Q When a Presidential-declared disaster exists, who coordinates emergency activities for the various programs?**

A The New York NRCS and local FEMA will coordinate activities. NRCS, SEMO, and other emergency agencies provide assistance as their programs allow.
4. **Q What is an exigency site and how long does the sponsor have to fix such a site?**

A An exigency situation exists if there is an immediate threat of damage to life or property - immediate action must be taken. After the sponsor is notified that funds are available, work on an exigency site must be completed within 10 days.
5. **Q How long does the sponsor have to fix non-exigency sites?**

A All sites should be repaired as soon as possible. However, work on non-exigency sites must be completed within 220 days after the sponsor is notified that funds are available.
6. **Q The sponsor has decided to perform the work associated with EWP (Force Account). What expenses will be reimbursed?**

A The work-related expenses for materials incorporated into the site, and labor and equipment used to perform the work. NOT reimbursable are personnel, equipment, material, or supply costs associated with survey, design, plan preparation, administration, or construction inspection. These costs will be reimbursed up to 10% of the cost of installation separately from the Force account.
7. **Q What type of easements are required for EWP work?**

A For permanent, long-life measures that are off the sponsors R.O.W., permanent easements should be obtained. Work permits may be adequate for work consisting of shaping, vegetation, and minor rock structures. The sponsors are responsible for obtaining the easements or permits they deem necessary for accomplishing the work and for providing future maintenance. The sponsors must provide NRCS written assurance that the necessary easements and permits have been obtained, but they do not have to provide copies of the easements.

8. **Q Which sites must have a site-specific O&M Plan prepared?**
A Permanent, long-life measures such as streambank protection, gabion structures, large pipe drop structures, large grade stabilization structures, etc., require a formal O&M Plan and Agreement.
9. **Q What kinds of damage are eligible for repair under the EWP program?**
A
- Typical examples are:
 - Severely eroded streambanks impacting valuable property.
 - Landslides.
 - Wildfire damage.
 - Tornado and flood debris in streams.
 - Severe scour of stream bottom and banks at culvert entrances and exits.
 - Recent sediment deposits in streams.
10. **Q What kinds of damage are not eligible for repair under the EWP program?**
A
- Damage that would be expected from a “normal” storm event. This is considered routine operation and maintenance.
 - Damage that existed before the disaster event.
 - Washed-out road fills, road surfaces, bridges, culverts, utilities, and similar structures.
 - Erosion that only threatens farmland, woodland, or pastureland.
 - Damage to beaches, dunes, or shorelines.
 - Damage to structures installed by other federal agencies, such as canals and drainage channels built by the Corps of Engineers.
11. **Q Are landslides eligible for EWP assistance?**
A If the slide threatens life or property and is a sudden impairment, it could qualify for EWP assistance.
EXAMPLE: A hillside adjacent to a stream experiences a slope failure during a storm event. The slide has entered the stream and is about to continue dislocating valuable property above or filling the stream. Removal of the slide material and stabilization of the site would qualify for EWP assistance assuming economic and other criteria were met.
12. **Q What is an example of a landslide that would not qualify?**
A A slide that is wholly or primarily within the road fill is considered reconstruction of the transportation facility and would not be eligible for EWP assistance. Another example is a roadside cut that has a history of shallow slides that frequently deposit material in the stream. This is considered a pre-existing problem and repair would be considered normal O&M for the site.

13. **Q Can a site be fixed that has been an operation and maintenance nightmare for years prior to the storm event?**
A No. EWP funds are not to be used to fix pre-existing problems unless the damage due to the storm event is significantly greater than the pre-existing condition of the site. The watershed impairment has to have occurred in the event(s) associated with the request for assistance.
14. **Q A stream is threatening a federal aid highway. Can the EWP program be used to stabilize the gully and protect the road?**
A No. The federal aid highway is eligible for the Emergency Relief Program administered by the Federal Highway Administration of the Department of Transportation (DOT).
15. **Q What if no federal highway funds are available for this storm event?**
A EWP funds can be used when no funds are available through programs administered by DOT.
16. **Q Can EWP funds be used to construct a new channel to provide the drainage necessary for protection from flooding that is creating a hazard to life and property?**
A No. EWP funds cannot be used to construct a new channel, realign a channel, or do work that increases the predisaster capacity of a channel.
17. **Q A stream existed off the right-of-way of a county road prior to the big flood. The rains associated with the flood caused the stream to move and threaten the road. Can EWP funds be used to stabilize the stream and protect the road?**
A Yes.
18. **Q A county road has been completely eroded by a stream during the storm event. Can EWP funds be used to rebuild the road?**
A No. Generally the road is rebuilt with FEMA funds. EWP funds cannot be used to repair or rebuild public facilities. If the rebuilt road bank needs protection, EWP funds could be utilized to solve that situation.
19. **Q An eligible site can be repaired with riprap. The design engineer wants to design for a permanent solution including concrete and pipe. Can this be allowed in the EWP program?**
A The riprap solution is all that can be paid for in the EWP program. Any additional costs associated with the permanent solution must be incurred by the sponsor.
20. **Q A streambank is eroding and threatening cropland. Can EWP funds be used to riprap the streambank.**
A No. EWP funds cannot be used to protect cropland or pastureland. Other programs are available for this.

21. **Q A site qualifies for assistance based on the type of damage; however, the economic benefits are significantly less than the cost of restoration. What are the alternatives?**
- A** In some cases the site would be eligible for assistance without economic justification. If there is a clear and significant hazard to life, if the damage completely isolates residences or businesses from fire and emergency team access, or if there are other social, environmental, or economic considerations that can be shown, the site may qualify. Another option would be for NRCS to fund costs up to the amount that is economically justified with the sponsors funding the remainder.
22. **Q Can a prior EWP funded site be eligible for financial assistance during a subsequent event?**
- A** Yes, if the damage is caused by an extreme storm event. However, the intent of the EWP program is to provide emergency repairs to restore sites to their pre-storm condition. It is expected that sponsors would make additional improvements as needed to insure long-term stability. Consequently, sites that have been funded in prior events may receive lower priority for funding than newly damaged sites. Sites cannot be funded more than twice in any 10-year period.
23. **Q A stream along a road is being repaired with an EWP contract. During construction it is discovered that the culvert invert is rusted out. Can the culvert be replaced with EWP funds?**
- A** No. Repair and replacement of transportation facilities (roads and bridges) is not eligible for EWP assistance. The sponsor may have the contractor replace the culvert while working on the site, but the total cost for replacement of the culvert will be the responsibility of the sponsor.
24. **Q The county (or city) has already performed obstruction removal at a bridge location prior to requesting assistance from the EWP program. Can this work that has already been performed be included in DSRs and the county receive payment for the work?**
- A** No.
25. **Q How “fancy” (neat and detailed) do construction drawings have to be?**
- A** Drawings only need to be as detailed as is necessary to convey the information required to construct the work. The amount of detail should be commensurate with the complexity of the site. For force account work, simple pencil drawings may be adequate. Keep in mind that formal contracts generally require more details and should be more specific to avoid contract disputes.
26. **Q Do all engineering plans developed by the sponsor need to have a P.E. seal or NRCS approval?**
- A** Yes, except for debris removal.

27. **Q Do NRCS engineers have to review all plans developed by the sponsor's engineer?**
A No. However, NRCS engineers will review initial plans of engineers who have no history of EWP design. NRCS will also review plans of complex sites. Engineers who have designed EWP jobs will have only a spot check of their routine designs by the NRCS engineer. All NRCS review comments are to be incorporated into the plans.
28. **Q What construction specifications are used for EWP work?**
A The sponsor's engineer may develop specifications or use specifications provided by NRCS. NRCS has EWP construction specifications available in PDF (Portable Document Format) format on the New York NRCS homepage (<http://www.ny.nrcs.gov/technical/engineering/engineeringhome.html>). All specifications should meet applicable NRCS schedules. Items of Work and Construction Details specific to the site must be added by the designer. The sponsor's engineer is ultimately responsible for the specifications used.
29. **Q EWP work involves removal of debris from a stream. Can equipment be used in the bottom of the streambed to do this work?**
A Generally, no. All work must be performed in the most environmentally sensitive manner possible. When possible, debris removal from a stream should be performed with heavy equipment from the top of the streambank.
30. **Q Who performs the final inspections?**
A The sponsor is responsible for insuring that repairs are completed as designed. NRCS personnel will participate in the final inspection at each site to confirm that the repair was made and that it is in keeping with the work that was planned for the site. NRCS will not do an item-by-item inspection. However, if any critical deficiencies are noted by NRCS personnel, they must be corrected before final payment is made.
31. **Q Can some of the sites in a project agreement be paid before all the sites included in the agreement are complete?**
A Yes. SF-270 forms (Request For Payment) may be submitted for groups of completed sites.
32. **Q What should be done if a cost-overrun occurs?**
A As soon as it is apparent that repair costs will exceed the estimate, notify the NRCS district conservationist and request a modification to the project agreement. If the additional costs are justified, normally there will be no problem obtaining the additional funds. However, if EWP funds are exhausted, NRCS may be able to pay only the amount obligated in the original agreement.

33. **Q If the sponsors are unable to complete the agreed-to-work within the allotted time, what should they do?**
- A** They should notify the NRCS district conservationist and request a time extension. If they are working diligently to complete the work, an extension will generally be granted.
34. **Q Once the work is completed and the sponsors have submitted a request for payment, how long will it be before they receive payment?**
- A** Payment is usually made within 10 to 14 working days.

PERMITS

EWP work often involves construction in and along streams. The Federal Section 404 Clean Water Act requires a permit for any construction activity that involves the placement of dredged or fill materials in "Waters of the United States." These waters include navigable waters and tributaries, interstate waters and tributaries, and any other waters including lakes, intermittent streams, and wetlands.

Generally in-stream EWP construction activities do not require an individual 404 Permit. The type and extent of work encountered on EWP projects is usually covered under one of the following Nationwide Permits:

NWP 13. BANK STABILIZATION - Applies to bank stabilization activities necessary for erosion prevention where:

- the bank stabilization activity is less than 500 feet in length.
- the activity will not exceed an average of one cubic yard per running foot placed along the bank below the plane of the ordinary high water mark.
- no material is placed in any special aquatic site, including wetlands.
- notification will be given to the Corps of Engineers when bank stabilization activities exceed 500 feet in length or an average of one cubic yard per running foot.

NWP 26. HEADWATERS AND ISOLATED WATERS DISCHARGES - Applies to discharges of dredged or fill material into headwaters and isolated waters where:

- The discharge does not cause the loss of more than 10 acres of "Waters of the United States."

NWP 37. EMERGENCY WATERSHED PROTECTION AND REHABILITATION - Applies to work done by or funded by the Natural Resources Conservation Service qualifying as an "exigency" situation, under its Emergency Watershed Protection Program.

Sponsors should consult with NRCS or COE personnel if there is any question whether or not an individual permit is required.

DESIGN PROCESS

Three Categories

1. Complex Sites: Any site with stream channel stabilization, pipe, concrete, grouted riprap, or cost that exceeds \$50,000.00.
 - a. Pre-design conference with NRCS engineer.
 - b. Design review and concurrence by NRCS engineer.
 - c. Provide a final copy of plans and specifications to NRCS.
2. Intermediate Sites: Any site that either NRCS designates or sponsor requests a consultation.
 - a. Pre-design conference with NRCS engineer.
 - b. Provide a final copy of plans and specifications to NRCS.
3. Simple sites: All sites not in Category 1 or 2.

EXAMPLE: Debris removal, rock checks, rock ditch flumes, or riprap culvert outlet protection.

- a. Provide a final copy of plans and specifications to NRCS.

NOTE: NRCS engineers and technicians will be available by request to consult with sponsors and provide standard drawings and example plans and specifications which have been prepared for similar sites.

[EWP construction specifications are available on the New York NRCS homepage.](#)

STREAM BANK STABILIZATION

1. Design

- Calculate average velocity in channel from the runoff peak of a 10-year, 24-hour storm or bankfull flow, whichever is less. Use average velocity to determine type of protection required.
- Cohesive soils with excellent vegetation can withstand velocities of up to 5 ft/sec. Sites with velocities in excess of 5 ft/sec need structural protection.
- Provide protection to the height of the peak runoff from a 10-year, 24-hour storm event or low bank height, whichever is less.
- Rock riprap should meet or exceed requirements for NYDOT 620-2.03 Dry Riprap with an appropriate gradation.
- Grouted riprap shall have a maximum allowable velocity of 20 ft/sec.
- Gabion retaining walls and gabion mattresses should be designed in accordance with the manufacturer's recommendations.
- Any other manufactured products shall be used and designed as recommended by the manufacturer of the product.
- Adequate granular filters or geotextile filters need to be provided for mechanical protection.

2. Layout

- Bank armoring structures should be keyed into the stream bottom and sides to prevent undercutting of the protective structures.
- Unprotected slopes should be sloped at 2:1 or flatter and seeded and mulched or otherwise protected from sheet and rill erosion, immediately after construction is completed.
- Slope bank to 2:1 or flatter for rock riprap bank protection. 1.5:1 can be used where needed.
- Slope bank to 1.5:1 or flatter for gabion mattresses.
- Hydraulic capacity of existing structures should not be reduced by structural protection.
- Channel changes are limited to restoring channel to pre-flood alignment.

3. Construction

- Gradation of riprap is critical to providing the desired protection.
- Qualified inspectors should be assigned to each project. Continuous inspection is recommended for all practices except debris removal.

STREAM CHANNEL

1. Hydraulic Design

- Determine the amount of grade control required for stability, based upon the amount of degradation occurring and/or estimate of desired channel slope. Give consideration to the effects of sediment deposition when reducing channel grades.
- Design the weir capacity of the structure for the bankfull capacity of the stream; design flow should be greater than the 10-year, 24-hour peak, but need not exceed the 100-year, 24-hour peak.
- Design armoring based upon velocities expected for the above design storm or the 25-year, 24-hour storm, whichever is less.

2. Structural Design

- Determine loads acting on structure; design structure for maximum shears and bending moments.
- Any manufactured products used in the structure should be used and designed as recommended by the manufacturer of the product.
- Provide for adequate energy dissipation downstream of the structure by means of nonerodible surfacing, energy dissipation blocks, plunge pool, or other methods. Consider velocities and depth of tailwater in determining appropriate protection.

3. Layout

- Where nonerodible surfacing is required, acceptable alternatives include precast concrete blocks, grouted riprap, and gabion baskets or mattresses.
- NYDOT Item No. 620.06 Dry Riprap is recommended for grade stabilization structures with an appropriate gradation.
- Granular bedding or geotextile is recommended beneath riprap, gabions, etc., to provide separation and prevent piping of fines from beneath the rock.
- Guidelines listed for Stream Bank Stabilization also apply to Stream Channel Stabilization.

4. Construction

- All disturbed areas should be seeded and mulched immediately after construction is completed.
- Continuous inspection by qualified inspectors should be provided.

PLAN OF OPERATION

DATE: _____

SPONSOR: _____

*PROJECT NAME/NUMBER: _____

*COOPERATIVE AGREEMENT NUMBER: _____

A. Services to be Performed (Check box as appropriate)

- | | |
|--|---|
| | Install: |
| <input type="checkbox"/> Contract Administration | <input type="checkbox"/> Earthfill |
| <input type="checkbox"/> Surveys | <input type="checkbox"/> Riprap |
| <input type="checkbox"/> Design | <input type="checkbox"/> Concrete/grout |
| <input type="checkbox"/> Inspection | <input type="checkbox"/> Geotextile |
| <input type="checkbox"/> Mobilization | <input type="checkbox"/> Vegetation |
| <input type="checkbox"/> Remove Debris | <input type="checkbox"/> Gabions |
| | <input type="checkbox"/> Other _____ |

B. Number of sites: _____ No.

Length of clearing or debris removal _____ lin.ft.

C. Personnel (Check box as appropriate) Estimate Hourly Wage

- | | |
|---|-------|
| <input type="checkbox"/> Project Manager | _____ |
| <input type="checkbox"/> Design Engineer | _____ |
| <input type="checkbox"/> Draftsman | _____ |
| <input type="checkbox"/> Survey Crew | _____ |
| <input type="checkbox"/> Inspector | _____ |
| <input type="checkbox"/> Truck Driver | _____ |
| <input type="checkbox"/> Backhoe Operator | _____ |
| <input type="checkbox"/> Bulldozer Operator | _____ |
| <input type="checkbox"/> Laborer | _____ |
| <input type="checkbox"/> Others | _____ |

*NRCS will provide information

D. Equipment (Check box and if appropriate, note size).

- Trucks _____
- Sedans _____
- Backhoe _____
- Bulldozer _____
- Carryall _____
- Dragline _____
- Chainsaws _____
- Other _____

E. Materials - From DSR or Engineer's Estimate (Check box)

- Earthfill _____ cu. yds.
- Concrete _____ cu. yds.
- Riprap _____ tons
- Geotextile _____ sq. yds.
- Seed _____ lbs.
- Fertilizer _____ lbs.
- Other _____

F. Schedule of Operation

MO/DA/YR

- Assumed date of Notice-to-Proceed _____
- Complete designs _____
- Begin construction _____
- Complete construction _____

G. Administrative Procedure

This form, if required, will be completed by the program manager, contract specialist, or other state office personnel based on information provided by local sponsors or the district conservationist.

Submitted by: _____

Concurred by: _____

Title: _____

Title: Assistant State Conservationist

Date: _____

Date: _____

COOPERATIVE AGREEMENT EXAMPLES

After the Sponsor has prioritized the DSRs and selected the sites to be repaired, NRCS will prepare a cooperative agreement for the Sponsor's signature. The cooperative agreement obligates funds for the repair and establishes the time period within which the work must be completed. After the Sponsor signs the cooperative agreement and returns the original to NRCS, the NRCS representative will sign and return a copy to the Sponsor with instructions to proceed with the work.

There are two types of cooperative agreements - Force Account and Formal Contract. The cooperative agreement allows the Sponsor to perform repair work on the site(s) in the following manner:

Force Account - Sponsor uses their employees.

Locally Led Contract - Sponsor contract our using private construction contractors.

An example of each type of cooperative agreement is attached. The site(s) covered by the cooperative agreement will be listed along with a brief description of the work and the estimated cost for repairing each site.

NOTE: Additional funds for the site(s) listed in the cooperative agreement can be obligated only by a signed modification to the original cooperative agreement.

STATE: _____

PROJECT: _____

AGREEMENT NO: _____

UNITED STATES DEPARTMENT OF AGRICULTURE

NATURAL RESOURCES CONSERVATION SERVICE

PROJECT AGREEMENT

FORCE ACCOUNT

THIS AGREEMENT is hereby entered into by and between the _____ hereinafter, called the Sponsor, and the Natural Resources Conservation Service, United States Department of Agriculture, hereinafter called NRCS.

WITNESSETH THAT:

WHEREAS, under the provisions of Section 216 of Public Law 81-516, Emergency Watershed Protection Program and Title IV of the Agricultural Credit Act of 1978, Public Law 95-334, NRCS is authorized to assist the Sponsor in relieving hazards created by natural disasters that cause impairment of a watershed, and

WHEREAS, NRCS and the Sponsor agree to install emergency watershed protection measures to relieve hazards and damages created by _____ (i.e. Hurricane, fires, floods) on _____, 20__.

NOW THEREFORE, in consideration of the premises and of the several promises to be faithfully performed by the parties hereto as set forth, the Sponsor and NRCS do hereby agree as follows:

- A. It is agreed that the following described work is to be performed at an estimated cost of \$ _____.

<u>DSR Number</u>	<u>Description of Work</u>	<u>Estimated Cost</u>
-------------------	----------------------------	-----------------------

- B. The Sponsor will:

- 1. Provide 25 percent of the cost of constructing the emergency watershed protection measures described in Section A. This cost to the Sponsor is estimated to be \$ _____.

2. Secure the materials and equipment and install the emergency watershed protection measures described in Section A by force account in accordance with specifications furnished by NRCS and specifications furnished by the Sponsor when concurred in by NRCS. Protect all materials to be used and maintain a current record of disbursements and use of such material. Maintain all equipment used in good operating conditions.

3. Provide the following authorized technical services _____

_____ (the items may include preparation of drawings, designs and specifications; and performance of layout, inspection service)

4. Accept all financial and other responsibility for excess costs resulting from their failure to obtain or their delay in obtaining adequate land and water rights, permits, and licenses needed for the emergency watershed protection measures described in Section A.

5. The following individual is designated as the liaison between the Sponsor and NRCS.

(Name/Title)

(Address)

(Phone/Email)

6. Carry out the work in accordance with the plan of operations heretofore prepared by the Sponsor and concurred in by NRCS. Secure NRCS concurrence before changing the plan of operations.

7. Any acquisitions shall be procured in accordance with applicable state requirements.

8. Ensure that requirements for compliance with environmental and/or cultural resource laws are incorporated into the project.

9. Be responsible for all administrative expenses necessary to arrange for and carry out the emergency watershed protection measures described in Section A. These administrative expenses include but shall not be limited to facilities, clerical personnel, and legal counsel including such attorneys deemed necessary by NRCS to resolve any legal matters.

10. Submit billings to NRCS on Form SF-270, Request for Advance or Reimbursement, along with itemization of eligible costs incurred.
11. Maintain, as a minimum, the following data to support the Sponsor's request for reimbursement:
 - a. Invoices covering actual costs of materials.
 - b. Records showing materials actually used on the work, and disposition of excess materials.
 - c. Daily time records for each employee showing name, classification, wage rate, hours, and dates actually employed on the work.
 - d. Equipment operating records showing the rate, hours, and dates actually used on the work.
12. Arrange for and conduct final inspection on completed emergency watershed protection measures with NRCS to determine whether all work has been performed in accordance with specifications and plan of operation.
13. Hold and save NRCS free from any and all claims or causes of action whatsoever resulting from the obligations undertaken by it under this agreement or resulting from the work provided for in this agreement.
14. Retain all records dealing with direct supervision, labor, equipment and materials used in the work for 3 years from the date of the Sponsor's submission of the final request for payment or until final audit findings have been resolved, whichever is longer. If any litigation is started before the expiration of the 3-year period, the records are to be retained until the litigation is resolved or until 3 years, whichever is longer. Make such records available to the Comptroller General of the United States or his duly authorized representative and accredited representatives of the Department of Agriculture or cognizant audit agency for the purpose of making audit, examination, excerpt and transcripts.
15. Comply with the applicable requirements in Attachments A & B to this agreement.

16. Upon acceptance of work, assume responsibility for operation and maintenance of the emergency.

C. NRCS will:

1. Provide no more than 75 percent of the cost of the emergency watershed protection measures described in Section A. The cost to NRCS will not exceed \$ _____.
2. Provide reimbursement for the authorized technical services provided by the Sponsor described in B3 not to exceed 10 percent of the NRCS share of the actual cost of constructing the emergency watershed protection measures. The cost to NRCS will not exceed \$_____.
3. Provide the services of a Government Representative and Government Inspector, as necessary.
4. Make payment to the Sponsor for NRCS's share of the cost upon receipt and approval of Form SF-270.
5. Be available to conduct progress checks and participate in final inspection.
6. The following individual is designated as liaison between the sponsor and NRCS.

(Name/Title)

(Address)

(Phone/Email)

D. It is mutually agreed that:

1. This agreement is effective the date it is fully executed by all parties to the agreement. It shall become null and void 30 calendar days after the date NRCS has executed this agreement in the event the work has not been commenced.
2. This agreement may be renegotiated, amended, extended, or modified by a written amendment as mutually agreed by both parties.

3. The procurement of materials necessary for accomplishing the emergency watershed protection measures described in Section A will not be made from the Sponsor or firms in which any official of such organization or any member of such official's immediate family has direct or indirect financial interest in the pecuniary profits of such firm.
4. NRCS may terminate this agreement in whole or in part when it is determined by NRCS that the Sponsor has failed to comply with any of the conditions of this agreement. NRCS shall promptly notify the Sponsor in writing of the determination and reasons for the termination, together with the effective date. Payments made by or recoveries made by NRCS under this termination shall be in accord with the legal rights and liabilities of NRCS and the Sponsor.
5. This agreement may be temporarily suspended by NRCS if it determines that corrective action by the Sponsor is needed to meet the provisions of this agreement. Further, NRCS may suspend this agreement when it is evident that a termination is pending.
6. NRCS, at its sole discretion, may refuse to cost share should the Sponsor elect to proceed without obtaining concurrence as set out in Section B. of this agreement.
7. The furnishing of financial and other assistance by NRCS is contingent on the continuing availability of appropriations by Congress from which payment may be made and shall not obligate NRCS if Congress fails to so appropriate.
10. Activities conducted under this agreement will be in compliance with the nondiscrimination provisions as contained in the Titles VI and VII of the Civil Rights Act of 1964, as amended, the Civil Rights Restoration Act of 1987 (Public Law 100-259) and other nondiscrimination statutes, namely Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and in accordance with regulations of the Secretary of Agriculture (7CFR-15, Subparts A and B) which provide that no person in the United States shall on the grounds of race, color, national origin, age, sex, religion, marital status, or handicap be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance from the Department of Agriculture or any agency thereof.

Page 6, Agreement No. _____

SPONSOR

By: _____

Title: _____

Date: _____

This action authorized at an
official meeting of

on the ____ day of _____,
19__, at _____
State of _____

(Signature)

(Title)

UNITED STATES DEPARTMENT OF AGRICULTURE
NATURAL RESOURCES CONSERVATION SERVICE

By: _____

Title: _____

Date: _____

STATE: _____

PROJECT: _____

AGREEMENT NO.: _____

UNITED STATES DEPARTMENT OF AGRICULTURE
NATURAL RESOURCES CONSERVATION SERVICE

PROJECT AGREEMENT

LOCALLY LED CONTRACTING

THIS AGREEMENT is hereby entered into by and between the _____ hereinafter called the Sponsor; and the Natural Resources Conservation Service, United States Department of Agriculture, hereinafter called NRCS.

WITNESSETH THAT:

WHEREAS, under the provisions of Section 216 of Public Law 81-516, Emergency Watershed Protection Program, and Title IV of the Agricultural Credit Act of 1978, Public Law 95-334, NRCS is authorized to assist the Sponsor in relieving hazards created by natural disasters that cause a sudden impairment of a watershed, and

WHEREAS, NRCS and the Sponsor agree to install emergency watershed protection measures to relieve hazards and damages created by < *list name of storm event e.g. Hurricane ELWYN* >.

NOW, THEREFORE, in consideration of the premises and of the several promises to be faithfully performed by the parties hereto as set forth, the Sponsor and NRCS do hereby agree as follows:

- A. It is agreed that the following-described work is to be constructed at an estimated cost not to exceed \$ *enter dollar value of proposed construction* >.

<u>DSR No.</u>	<u>Description</u>	<u>Estimate</u>
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B. THE SPONSOR WILL:

1. Provide for accomplishment of the works of improvement described in Section A and provide for their completion within _____ days from the time that this agreement is executed and a notice to proceed is received. The Sponsor shall provide NRCS a copy of any solicitation (Invitation for Bids, Request for Quotations, etc.), bid abstract, and awarded contract, or other basis of cost and accomplishment.
2. Provide cash contribution for any portion of the required 25% of the actual cost of constructing the emergency watershed protection measures described in Section A not provided by in-kind construction services described in B.3.
3. If approved by NRCS, the sponsor may provide in-kind construction services (materials, labor, and equipment). The Sponsor shall develop a Plan of Operation for all in-kind construction services performed. The Plan of Operation shall be submitted to NRCS for approval prior to commencement of construction. The maximum value of all in-kind

construction services shall not exceed _____ or 25 percent (whichever is less) of the total *actual* cost of construction the emergency watershed protection measures described in Section A and in accordance with Section B.4 of this agreement. In-kind construction services shall not exceed published FEMA rates unless otherwise documented and concurred by NRCS. In-kind services will not be reimbursed for in-kind construction services provided by the Sponsor.

4. Actual cost of construction will consist of contracts awarded to contractors plus eligible Sponsor in-kind construction services of materials, labor, and equipment. The Sponsor shall provide NRCS records to support costs incurred by the Sponsor.
5. Provide in-kind technical services (survey the site, design the project, develop engineering plans and specifications, let and administer contracts, and inspect work performed). The maximum value of in-kind technical services that will be reimbursed to the Sponsor will not exceed 10 percent of the NRCS share of the *actual* cost of constructing the emergency watershed protection measures described in Section A and in accordance with Section B.4 of this agreement.
6. Acquire needed real property rights (land and water), permits, and licenses in accordance with State and Federal laws at no cost to NRCS. Provide certification (signed NRCS-ADS-78) that real property rights have been obtained for works of improvement described in Section A supported by an attorney's opinion attached thereto. Certification shall be provided to NRCS prior to solicitation for installation of the works of improvement.
7. Accept all financial and other responsibility for excess costs resulting from their failure to obtain or their delay in obtaining adequate land and water rights, permits, and licenses needed for the work described in Section A.
8. Take reasonable and necessary actions, including legal action, if required, to dispose of any and all contractual and administrative issues arising out of the contract(s) awarded under this agreement to include but not be limited to, disputes, claims, protests of award, source evaluation, and litigation that may result from the project, and bringing suit to collect from the contractor any moneys due in connection with the contract. Any monies collected will be distributed to the parties in the same ratio as contributions are made.
9. Comply with the requirements of the provisions included in Attachment A to this agreement. If applicable, complete the attached "Clean Air and Water Certification" included in Attachment A.
10. Hold a pre-design conference with the Sponsor, Sponsor's design engineer, and NRCS. The design conference shall set forth design parameters concurred by both the Sponsor and NRCS.
11. Prior to commencement of work and/or solicitation of bids, submit for NRCS review, the preliminary design, construction specifications, and drawings prepared in accordance with standard engineering principles and design parameters set forth in the pre-design conference.
12. Prior to commencement of work and/or solicitation of bids, submit for NRCS review the Quality Assurance Plan (QAP). The QAP shall outline technical and administrative expertise required to ensure the works of improvement are installed in accordance with the plans and specifications, identify individuals with the expertise, describe items to be

inspected, list equipment required for inspection, outline the frequency and timing of inspection (continuous or periodic), outline inspection procedures, and record keeping requirements.

13. Upon receiving comments from NRCS, prepare the final design, construction specifications, and drawings in accordance with standard engineering principles, design parameters set forth in the pre-design conference, and the QAP. One set of the final plans, specifications and QAP shall be submitted to NRCS for final review and concurrence prior to solicitation of bids and/or commencement of work. The final construction plans and specifications shall be signed and sealed approved by a Professional Engineer registered in the State of Florida.
14. Provide construction inspection in accordance with the QAP.
15. Provide copies of site maps to appropriate Federal and State agencies for environmental review. Sponsor will notify NRCS of environmental clearance, modification of construction plans, or any unresolved concerns as well as copies of all permits, licenses, and other documents required by Federal, State, and local statutes and ordinances prior to solicitation for installation of the works of improvement. All modifications to the plans and specifications shall be reviewed and concurred in by NRCS.
16. Ensure that any special requirements for compliance with environmental and/or cultural resource laws are incorporated into the project.
17. The following individual is designed as the liaison between the Sponsor and NRCS.

(Name/Title)

(Address)

(Phone/Email)

18. Ensure that all contracts for design and construction services will be procured in accordance with procedures prescribed by the State of New York and Federal regulations applicable to the Sponsor, including the provisions contained in Attachment B to this agreement.
19. Arrange for and conduct final inspection of the works of improvement. The NRCS Liaison, the Sponsor Liaison, and the Sponsor's design engineer shall participate in the final inspection. A Professional Engineer registered in the State of New York furnished by the Sponsor shall certify that the project was installed in accordance with contractual requirements.
20. For structural measures, prepare and submit for approval an Operation and Maintenance Plan prior to completion of construction. Upon completion of the work, the Sponsor shall assume responsibility for operation and maintenance of the works of improvement installed.

21. If needed, upon completion of emergency protection measures and the elimination of the threat, take action to bring the measures up to reasonable standards by other means and/or authority. Unless the measures are brought up to reasonable standards, the sponsor will not be eligible for future funding under the Emergency Watershed Protection program.
22. Provide final as-built drawings and quantities to NRCS. As-built drawings and quantities shall be certified by the engineer furnished by the Sponsor. The engineer furnished by the Sponsor shall certify final quantities.
23. Pay the contractor as provided in the contract(s). Submit billings for reimbursement to NRCS on Form SF-270, Request for Advance or Reimbursement.
24. Administer their action under this agreement in accordance with 7 CFR 3015, 7 CFR 3016, OMB Circulars A-102, A-87, A-133, and other rules referenced in 7-CFR 3015.
25. Comply with the nondiscrimination provisions of the Equal Opportunity clause and the Notice to Contracting Local Organizations of the Requirement for Certifications of Nonsegregated Facilities clause, Form SCS-AS-83, attached hereto as Attachment B.
26. Hold and save NRCS free from any and all claims or causes of action whatsoever resulting from the obligations undertaken by the Sponsor under this agreement or resulting from the work provided for in this agreement. Retain all records dealing with the award and administration of contract(s) for 3 years from the date of the sponsor's submission of the FINAL Request for Reimbursement or until final audit findings have been resolved, whichever is longer. If any litigation is started before the expiration of the 3-year period, the records are to be retained until the litigation is resolved or the end of the 3-year period, whichever is longer. Make such records available to the Comptroller General of the United States or his or her duly authorized representative and accredited representatives of the U.S. Department of Agriculture or cognizant audit agency for the purpose of making audit, examination, excerpts, and transcripts.
27. Provide 100 percent of the costs of works of improvement not eligible for federal cost share.
28. Complete all required work under this agreement, including but not limited to construction of works of improvement, final inspection, payment of all contractors, submissions of as-builts and final quantities, etc.

C. NRCS WILL:

1. Provide 75 percent of the *actual* cost of constructing the emergency watershed protection measures described in Section A and computed as described in B.4.
2. Provide the value of the Sponsor in-kind technical services not to exceed 10 percent of the *actual* cost of constructing the emergency watershed protection measures described in Section A and computed as described in B.4.
3. Assist Sponsor and Sponsor's engineer establish design parameters and approve and concur in same as set forth in Section B.10.
4. Not be substantially involved with the technical or contractual administration of this agreement, but will provide advice and counsel as needed.

5. Make payment to the Sponsor covering NRCS's share of the cost, upon receipt and approval of Form SF-270, Request for Advance or Reimbursement, with supporting documentation.
6. Upon notification of the completion of construction, NRCS shall promptly review the performance of Sponsor to determine if it has met the requirements of this agreement and fund expenditures as agreed.
7. Designate an individual to serve as liaison between the NRCS and the Sponsor. The major duties, responsibilities and authorities of the liaison will be to review and concur with specifications and drawings for the DSR, assist in the final inspection of the works of improvement, certify along with the Sponsor's Professional Engineer when all work has been completed according to the specifications and drawings, and review the SF-270 and supporting documents, approve, sign, and submit the SF-270 and supporting documents to NRCS for reimbursement to the Sponsor. The following individual is designed as the liaison between the Sponsor and NRCS.

(Name/Title)

(Address)

(Phone/Email)

8. Review, comment and concur on draft and final plans, specifications, and QAP as described in Sections B.11, B.12 and B.13.

D. IT IS MUTUALLY AGREED:

1. This agreement shall become null and void 90 calendar days after the date NRCS has executed this agreement if a solicitation for bids has not been publicly advertised or a contract has not been awarded.
2. This agreement shall be effective upon signature by NRCS. All work required under this agreement shall be completed in accordance with B.1.
3. That each party shall review, comment, and concur with the construction plans, specifications, and quality assurance plans as identified in Sections B.11, B.12 and B.13 of this agreement.
4. Upon notification from the Sponsor of the completion of construction, NRCS shall promptly review the performance of the Sponsor to determine if the requirements of this agreement have been met.
5. The furnishing of financial and other assistance by NRCS is contingent on the availability of funds appropriated by Congress from which payment may be made and shall not obligate NRCS upon failure of the Congress to appropriate funds.
6. NRCS may terminate this agreement in whole or in part when it is determined by NRCS that the Sponsors have failed to comply with any of the conditions of this

agreement. NRCS shall promptly notify the Sponsor in writing of the determination and reasons for the termination, together with the effective date. Payments or recoveries made by NRCS under this termination shall be in accordance with the legal rights and liabilities of NRCS and the Sponsors.

7. This agreement may be temporarily suspended by NRCS if it determines that corrective action by the Sponsor is needed to meet the provisions of this agreement. Further, NRCS may suspend this agreement when it is evident that a termination is pending.
8. Designated Liaisons may make adjustments to and between individual projects cost without amendment so long as the total estimated amount described in A of this agreement is not exceeded.
9. This Agreement may be executed in any number of counterparts and all of said counterparts taken together shall be deemed to constitute one and the same instrument. Receipt of a facsimile signature (followed promptly by an original executed counterpart) shall be deemed receipt of an original.
10. By signing this agreement the recipient assures the Department of Agriculture that the program or activities provided for under this agreement will be conducted in compliance with all applicable Federal civil rights laws, rules, regulations, and policies.
11. Employees of NRCS shall participate in efforts under this agreement solely as representatives of the NRCS. To this end, they shall not participate as directors, officers, employees, or otherwise serve or hold themselves out as representatives of the < *Name of Sponsor* > or any member of the < *Name of Sponsor* >. They also shall not assist the < *Name of Sponsor* > or any member the < *Name of Sponsor* > with efforts to lobby Congress, or to raise money through fundraising efforts. Further, NRCS employees shall report to their immediate supervisor any negotiations with the < *Name of Sponsor* >, or any member of the < *Name of Sponsor* >, concerning future employment and shall refrain from participation in efforts regarding such party until approved by the Agency.
12. Employees of the < *Name of Sponsor* > shall remain its employees while carrying out their duties under this agreement and shall not be considered as Federal employees or agents of the United States for any purpose under this agreement.

E.
< *Name of Sponsor* >

APPROVED:

By: _____
Title: _____
Date: _____
TIN: _____

This action authorized at an
official meeting of _____
on the _____ day of _____,
20____, at _____
State of _____

(Signature)

(Title)

UNITED STATES DEPARTMENT OF AGRICULTURE
NATURAL RESOURCES CONSERVATION SERVICE

By: _____
Title: _____ Date: _____
Reviewed: _____ Date: _____

SAMPLE

OPERATION AND MAINTENANCE PLAN EXAMPLE

The sponsors are responsible for maintaining all measures installed under the EWP Program. Most measures such as rock flumes and checks, earth fill, and vegetation require only minimal maintenance. The maintenance requirements are obvious and no special documentation of the maintenance is needed. Measures that are considered permanent structures and those that require regular maintenance to insure that proper functioning must have an Operation and Maintenance (O&M) Plan. Examples of structures requiring an O&M Plan are riprap streambank protection; pipe drop structures; gabion drop structures or retaining walls; important concrete structures; other measures that may be critical for public safety.

An O&M Plan may be prepared for a single site or a group of sites. The plan should state who is responsible for operation and maintenance activities (generally the sponsor). It should state the specific activities that must be performed to keep the measures in good condition and functioning properly. Usually an estimate of the annual cost of O&M activities is included. The O&M Plan should outline the timing and frequency of required inspections.

The O&M Plan should be prepared by the engineer who designs the EWP measure.

An example O&M Plan is included in this Guide.

OPERATION AND MAINTENANCE PLAN EXAMPLE

OPERATION AND MAINTENANCE PLAN
EMERGENCY WATERSHED PROTECTION
SITE FRND-11
FRIENDLY COUNTY, NEW YORK
July 2006

I. Operation

The Friendly County Commission (sponsors) will operate this measure in accordance with the terms of Section I of the Operation and Maintenance (O&M) Agreement.

II. Maintenance

A. It is anticipated that the following items of maintenance, repair, or replacement will be needed during the effective life of the measure.

1. Vegetation

- a. Reshape as necessary and either reseed or resod, and fertilize areas of poor stand, including those areas damaged by erosion, freezing, or drought.
- b. Fertilize vegetation as required to maintain a vigorous stand.
- c. Mow grass at regular intervals to maintain optimum cover.
- d. Spray or cut undesirable brush.

2. Structures

- a. Remove and properly dispose of debris, which accumulates on the trash racks and pipe entrances.
- b. Maintain diversions. Reshape areas to eliminate depressions and rills caused by concentrated runoff.
- c. Repair pipe structures and add rock and reshape and repair rock basins, and rock flumes as needed to keep functional.

- B. The estimated average annual cost of providing the necessary maintenance for this site is \$200.00. Funds to finance this cost will be provided by the Friendly County Commission.
- C. The sponsors will be responsible for and promptly perform or have performed maintenance determined by either the sponsors or the NRCS to be needed.
- D. The County Commission and NRCS will make a joint inspection of the structural measure for the first three years following installation of the structure. The site will be inspected by the sponsors at least annually after the initial three years and after unusually severe floods or the occurrence of any other unusual condition that might adversely affect the sites. Annual and special inspections will include but will not be limited to any examination of the following items.
 - 1. Excessive erosion and/or sedimentation.
 - 2. Conditions of planted vegetation and the deterioration of site conditions due to erosion and undesirable vegetation.
 - 3. Condition of inlets, outlets, riprap, and other related structures.
- E. A written report will be made of each inspection as provided in Section II C. of the O&M Agreement. If determined during the inspection that the items in D could affect the functioning of the site, corrective action and repairs will be made immediately in order to reduce the possibility of further damage and/or failure. A follow-up report will be provided when all corrective action has been accomplished.