



National Association of Conservation Districts

September 16, 2024

Terry Cosby
Chief, Natural Resources Conservation Service
Jamie L. Whitten Building
1400 Independence Avenue, S.W.
Washington, DC 20250

Re: NACD's Response to Notice of Request for Public Comment in Federal Register Docket ID NRCS-2024-0014

Dear Chief Cosby:

The National Association of Conservation Districts (NACD) represents America's 3,000 local conservation districts, state and territory associations, and the more than 17,000 men and women who serve on their governing boards. Established under state law, conservation districts are local units of government that share a single mission: to work cooperatively with federal, tribal, state, and other local resource management agencies and the private and public sectors to provide technical, financial, and other assistance to conserve natural resources across the country.

NACD appreciates the opportunity to provide comments as USDA works to implement the *Sponsoring USDA Sustainability Targets in Agriculture to Incentivize Natural Solutions Act of 2021 (SUSTAINS Act)*. The *SUSTAINS Act* expands USDA's authority to accept contributions of private funds to support locally led, voluntary conservation programs. NACD views this new authority as an innovative tool USDA can employ to leverage private investments in oversubscribed USDA conservation programs and increase the adoption of effective conservation practices across the country. Across our country's diverse landscapes, different approaches and practices are required to accomplish critical environmental objectives including building adaptation and resilience, improving water conservation and quality, bolstering soil health, reducing energy consumption, promoting wildlife habitat and biodiversity, and enhancing forest management.

NACD believes the *SUSTAINS Act* can complement existing USDA tools that facilitate partnerships with non-federal entities to put effective and innovative conservation practices on the ground. With this new opportunity, NACD emphasizes that the locally led process and existing frameworks for setting and achieving landscape scale goals (e.g., Working Lands for Wildlife) remain priority considerations as the agency implements this new authority. We also consider this an exciting opportunity to reduce backlogs within NRCS voluntary, locally led conservation programs. Broadly, NACD suggests that USDA leverage this new authority to best support natural resource priorities – as identified and prioritized by the locally led conservation delivery system – and programs with the highest unmet demand.

Conservation Districts are key partners of our country's locally led conservation delivery system, along with NRCS and state agencies. Locally led conservation is based on the principle that landowners and stewards know their lands and community needs best. Through collaborative bodies such as Local Working Groups, conservation districts work within their community to



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understand stakeholder input, identify critical resource concerns, and set conservation priorities for their respective communities. These priorities are then elevated to the state and landscape scales, ensuring that resources are coordinated and directed towards the most critical natural resource priorities within different parts of the country.

The *SUSTAINS Act* provides USDA with extensive discretion in providing matching funds up to 75 percent for private contributions. It is crucial that this new authority does not disrupt locally established priorities or inappropriately reallocate federal funds across conservation programs. NACD believes that it is critical that locally led conservation goals developed by communities remain at the forefront and are not deprioritized by privately selected projects. When determining if and the level of matching funds to contribute through this authority, NACD encourages USDA to consider alignment to local and landscape scale priorities, the individual and aggregate levels of federal funding being provided to support privately selected or influenced projects, what practices are being supported, and the demand within the eligible programs. As the *SUSTAINS Act* stipulates, NACD supports federal funding provided as match not substantially reducing the historical distribution of federal funding to any state for any covered program.

NRCS is working tirelessly with limited capacity and resources to administer all agency conservation programs, particularly those that received supplemental funding through the *Inflation Reduction Act*. NACD commends NRCS for making it their top priority to effectively administer these programs and help additional producers and land stewards put effective conservation on the ground. Considering, NACD cautions against establishing complex protocols or dedicating excessive NRCS staff, time, and other limited agency resources to develop and administer this new initiative. While this new authority is important, NACD encourages the agency to develop a simple, efficient plan for soliciting and managing private contributions that does not excessively divert resources needed to administer conservation programs. Doing so will not only support USDA's mission, but also encourage additional participation from private entities.

NACD also encourages USDA to look holistically at the regions, companies, producers, and other entities benefiting from conservation projects, environmental credits, and other benefits supported through this new authority. Ensuring that no one region, company, or other entity is securing an outsized portion of the benefits will be important to the sustainability of the program. NACD does not view this new authority solely as an opportunity for larger companies. We encourage the agency to work with and solicit contributions from entities of all sizes, regardless of their participation in an ecosystem service market. Encouraging grassroots participation and support for this new authority will help to bolster the program over the long-term.

Below are NACD responses to questions posed by USDA:

1. Should USDA actively solicit the contribution of funds, and if so, how?

If NRCS is to pilot a program, it would be beneficial to issue a structured solicitation for the contribution of private funds. Many companies have already voluntarily established sustainability goals and this new program may present an opportunity to help them meet those objectives.



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The solicitation should be structured such that it identifies which local and landscape scale priorities donations may support, while allowing interested entities to identify additional resource concerns. It should also ask interested entities to identify their geographical preferences, desired covered program and practices, and whether there are terms and conditions of the funding (e.g., are landowners or operators are required to participate in an ecosystem service market or other program to receive funds). The solicitation should also clearly articulate how funds will be distributed and ask potential donors to estimate the impact on landowners and operators, producers, local natural resource concerns, and environmental outcomes.

The agency should also reserve the right to work directly with contributors to negotiate the terms of the donation, the designated program(s), practices, project locations, and match. NACD believes it could be very beneficial for USDA to have the flexibility to work with contributing entities to explore different covered programs or combination of programs, practices, and matching contributions to better reach mutual conservation objectives. USDA should consider flexible solicitation tactics, such as open continuous announcements with established award phases throughout the year. This would allow for a more structured and planned approach to program investments, rather than reacting to new proposed donations and their estimated impact on conservation priorities and ongoing programs.

2. The SUSTAINS Act identifies several objectives that can be addressed through this provision (such as changing climate, sequestering carbon, improving wildlife habitat, protecting sources of drinking water, and addressing other natural resource priorities identified by the Secretary). Should USDA initially prioritize requesting contributions for specific natural resource priorities? If so, which natural resource priorities?

NRCS should consider local and landscape scale priorities (e.g., Working Lands for Wildlife frameworks) when soliciting contributions. This ensures that the locally led process remains intact, while continuing to align resources towards landscape scale goals. Diverse partnerships amongst NRCS, conservation districts, state and federal agencies, non-governmental organizations, and the private sector are currently operating across the country. These partners successfully coordinate a variety of resources and funding to work with landowners and operators within the locally led conservation delivery system. Private donations should be employed to amplify these efforts, not circumvent them with an alternative set of priorities that are determined outside the conservation delivery system. NACD also encourages NRCS to leverage this authority to further increase conservation opportunities for underserved producers and communities.

Implementation of the SUSTAINS Act can accelerate corporate and community engagement within federal conservation programs, drive private investments, and increase opportunities for producers. There is no one-size fits all approach to conservation and as such, NRCS should identify and communicate local or landscape scale natural resource priorities when requesting contributions.

3. Should USDA initially launch a pilot program to use contributed funds? If so, what might that pilot program look like?

NACD believes it would be beneficial to consider initially launching a pilot program at a smaller scale, particularly since this is a new opportunity and we do not yet know how private funds will



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be directed and utilized. An additional outstanding question is how NRCS would handle donor contributions to programs resulting in direct contracts with producers (e.g., EQIP and CSP), as opposed to donations for easements or competitively awarded agreements with an entity (e.g., RCPP, CIG). A pilot program would allow NRCS to work out the program rules, while minimizing impact on a potentially large number of landowners and operators.

NACD anticipates that some donors contributing to programs such as EQIP or CSP may be interested in funding only a limited number of practices. For example, entities that issue ecosystem service credits may only be interested in funding the suite of practices that can be quantified and modeled. However, effective conservation planning practices support systems-level planning, including incorporation of edge of field practices that carry significant ecosystem service benefits. NACD encourages NRCS to take this into consideration when accepting donations to ensure that land stewards continue to be incentivized and able to engage in systems-level conservation planning and practice implementation.

NACD encourages that the terms and conditions of donations to programs such as RCPP and CIG should not impact the objective competitiveness of an applicant, particularly in the case of smaller partners who may already be challenged to meet the match requirements. USDA may consider piloting a program to accept donations towards RCPP or CIG only after the projects are competitively selected and awarded, with the intent of expanding or augmenting existing partnerships and projects. Donated contributions could also be used to fund non-competitive RCPP renewals that have demonstrated successful outcomes and have already been selected for continuation or expansion.

To the maximum extent practical, the pilot program should adopt covered program rules and systems. USDA should be encouraged to negotiate with the contributing entity to determine the program(s) being used, the targeted resource concerns and conservation systems, timing of program delivery, outreach, and application selections.

In instances where the contributing entity may desire or require the land stewards to enroll in an ecosystem service market or crediting program as a condition of funding, USDA should ensure the contributor and program participants have a valid agreement prior to executing the contract. However, these should not be the only programs that benefit from private donations. Ecosystem service markets are limited, both in terms of the types of operations that can be enrolled and the practices that are implemented. NRCS must continue to ensure that locally led priorities are addressed and that broader systems of conservation planning can be facilitated.

4. Are there certain covered programs that USDA should dedicate contributions or pilot the program first?

USDA may consider developing a pilot program promoting opportunities for contributions to EQIP, as the program remains significantly oversubscribed. EQIP is shaped by the locally led conservation delivery system, and is already utilized by many partners and land stewards to achieve priority local and landscape scale conservation goals. NACD views this new authority as a great opportunity to increase funding for and the number of land stewards enrolled in this critical program.



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USDA should also consider developing a pilot for CSP. Many of the ecosystem service markets and programs today limit participation within certain operations and many “early adopters” do not qualify. It is important that USDA continues to ensure that early adopters, and operations that are not typically a target for ecosystem service markets, may participate and benefit from this program.

NACD also recognizes the existing public-private-philanthropic partnerships already achieving conservation outcomes. Where possible, USDA may consider leveraging these donations to amplify existing partnerships and initiatives that are being funded through NRCS grants or cooperative agreements. Should USDA pilot an initiative under RCPP or CIG, the agency may consider limiting it to post-award contributions to limit impacts on an objective, competitive award process. This would expand partnerships that have established track records and accelerate outcomes that are aligned with priorities established through the locally led conservation delivery system.

Within any pilot, NACD recommends maintaining maximum flexibility between technical and financial assistance. Administrative limitations that make it harder to execute the program should be avoided, particularly in the first few years of implementation. We strongly urge USDA to develop flexible rules and policy for the pilot in order to assess and adopt critical lessons learned. Remaining agile and able to quickly implement positive changes will be key to successful implementation of the *SUSTAINS Act*.

Program Administration

1. *The SUSTAINS Act provides criteria that the Secretary should consider when determining whether to accept private funds, such as the source of funds; any natural resource concerns to be addressed; consistency with the Secretary's priorities; and “other factors determined by the Secretary to be relevant” (16 U.S.C. 3841(f)(3)). What other criteria or issues should the Secretary consider in determining whether to accept a contribution of private funds?*

NACD encourages USDA to consider whether contributing entities will require an environmental services agreement with the participant. If contributing entities do require some level of environmental services recorded and maintained with participants, these entities should also have the resources to measure, monitor, report, and verify (MMRV) those services independent of USDA staff support. In addition, an entity’s ability to commit resources required to meet program implementation timelines should be considered.

2. *What processes should USDA establish to document contributions?*

USDA should consider a very simple and flexible online mechanism for the transfer of funds, similar to how the [Internal Revenue Service](#) accepts gifts to the U.S. Government. The terms of this contribution should be documented through a simple Memorandum of Agreement or similar vehicle that offers administrative flexibility.

While cooperative agreement and contribution structures could be adapted to support delivery between the contributing entity and USDA, the requirements set forth for managing such instruments may be too limited for the intake of funds.



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With respect to the individual agreements with program participants, USDA should follow established procedure using coding and accountability by program and source.

3. *How should USDA ensure that there is no conflict of interest or appearance of impropriety associated with accepting funds from certain sources?*

NACD supports USDA's authority to exercise a high-level of discretion when considering whether to accept funds from private entities. When accepting funds, USDA should work to ensure that the contributing entity will not create a discriminatory process or promote non-compliance with program authorities and scientific, technical, or practice standards. Further, USDA should monitor donations nationally to ensure that inequitable reallocation of funding and resources does not take place.

1) Priority funding requirements are set by the objective, locally led conservation process which engages conservation districts, local land stewards, and all community stakeholders. Landscape scale goals should also be priorities, as established by sound science and research frameworks such as Working Lands for Wildlife.

2) NRCS leverages its existing framework for conducting outreach to landowners and operators when enrolling them into conservation programs. NRCS should not give priority to the donor's suppliers or landowners enrolled in a specific ecosystem service market or program.

All covered program participants, whether benefitting from the donation or not, should be provided with technical assistance, undergo the conservation planning process, and be ranked using objective criteria to determine their funding and eligibility. This allows for alignment with local priorities and does not supplant other producers interested in participating in USDA programs. NRCS should also consider how authorities such as ACT NOW can continue to streamline enrollment and expedite processes.

3) NRCS should very carefully assess the terms and conditions of receiving funds and have full authority to negotiate fair and equitable terms. NRCS should also consider how pooling donations with federally appropriated program dollars will maximize conservation outcomes, even if the contribution has additional requirements. For instance, if certain practices are of interest to a donor, NRCS needs to ensure those are balanced by holding to the conservation planning process and ensuring that the appropriate system of practices (including those that are edge of field) are incorporated and funded.

Environmental Benefit Accounting

1. *How should the environmental service benefits generated through the SUSTAINS Act be defined? Specifically, what type of parameters would need to be in place?*

NACD encourages NRCS to retain focus on locally established natural resource priorities through its existing frameworks (e.g., Local Working Groups; State Technical Committees; Working Lands for Wildlife).

The NRCS conservation practices and standards supported by programs such as EQIP and CSP are science based and have proven environmental benefits. NACD encourages NRCS to continue



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to invest in programs and processes that encourages practice adoption and innovations, such as through CIG or the process for establishing interim practices.

2. *Should the environmental service benefits be consistently quantified, and if so, by which methods or protocols?*

NACD supports the quantification of ecosystem service benefits and robust MMRV. Through our climate smart commodities grant, we are working with partners to advance and streamline these efforts. However, NACD cautions against prioritizing donations that are associated with ecosystem service markets or must be rigorously quantified through advanced MMRV models. Supporting those would limit NRCS and conservation districts' ability to engage in systems level conservation planning given the current limitations of today's models. Additionally, many of these models are focused on carbon sequestration with emerging standards, models, and metrics for water and biodiversity. This is a small subset of the locally established natural resource priorities across the country. Further, ecosystem service market participants can be limited (e.g., based on size, operation type, geography, commodity) and the cost of program implementation of a robust program is high. Additionally, it is time consuming and costly for program participants to track and report field and farm level data for robust programs.

Given the diversity of natural resource priorities across the country, today's limitations in modeling, and the significant level of effort required by participating land stewards, any minimum requirements should be low effort and achievable. Similar to the USDA Climate Smart Commodities grant, should NRCS require consistent quantification of environmental service benefits, it may consider a tool such as COMET Planner.

Interest and Participation

1. *What steps should USDA take to address any potential barriers to producer participation? What steps should USDA take to address challenges that a private entity may face when considering contributing funds?*

While NACD strongly supports adherence to existing program rules, USDA can and should build some flexibilities in terms of use of funding, so long as it benefits land stewards and accelerates the scale of conservation planning and practice adoption. This may require flexibility for the ratio of TA/FA, as well as using funds to address significant barriers to adoption. USDA should contemplate how funds can address the barriers to producers implementing conservation practices when accepting donations. Some examples include:

- Will entities' donations be limited to practice implementation and cost-share?
- Will there be a separate account to fund issues that are barriers to participation? Examples may include grants for equipment (e.g., roller crimpers, no till drills to facilitate greater adoption of no-till), legal fees or genealogical research to mitigate heirs' property issues.

USDA should also consider how it will get funding on the ground. Some donors and entities may have a strong interest in contributing to conservation or environmental outcomes, but lack the



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on-the-ground network or capacity to conduct outreach, provide technical assistance and conservation planning, and support the MMRV process.

- In addition to soliciting donors, would USDA match donors to existing frameworks? For example, NRCS could work through State Conservationists or landscape scale frameworks such as Working Lands for Wildlife to fund conservation districts or existing partnerships that are effectively addressing this work.
- Leveraging authorities such as ACT NOW to streamline and accelerate funding helps ensure that landowners and stewards receive technical and financial assistance in a timely manner. Many ecosystem service contracts have strict timeframes for soil testing and practice implementation, so close coordination between parties is critical for efficient program delivery.

USDA should also consider the administrative process for donating and transferring funds. Any solicitations and forms should be minimal. NACD has significant concerns about redirecting limited NRCS, conservation district, and partner capacity to this effort, thereby detracting from implementation of core Farm Bill programs. This new authority should not replace nor alter existing program funding and delivery to producers, but enhance them through increased public-private partnership and investment. Working cooperatively with producers and potential contributing entities to define agreement objectives and structures will be critical to supporting partnerships and delivery.

2. What steps should USDA take to make this program attractive to both producers and potential contributing entities?

USDA should strive to create simple, clear program standards and not impose unnecessary barriers for contributing entities or producers related to program agreements, ecosystem services, and MMRV.

USDA should also recognize that some contributors may have direct relationships with participating producers. For example, a producer may receive funding through EQIP or CSP, but also have a contract with an entity issuing ecosystem service credits and payments. In this case, a producer may have two separate contracts that are interrelated and are dependent on receiving timely technical and financial assistance to implement the practice(s) generating ecosystem service benefits. The roles and responsibilities of each party, as well as commitments to timeframes and timing, must be clear. Supporting open and ongoing communications between the contributing entity and program participants will be important to program success.

3. What type of protections should USDA adopt to ensure that producers receiving contributed funds are treated equitably to other conservation program applicants and participants that do not receive contributed funds?

USDA should ensure that the natural resource priorities established through the locally led conservation delivery system and landscape scale frameworks remain at the core of funding distribution. NACD does not recommend managing a separate ranking system for those receiving program donations. USDA should ensure that all applicants are ranked according to the natural resource concerns established by the locally led conservation delivery system.



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NACD does not recommend establishing required or firm ratios of technical and financial assistance, which would be applied to all donations. Retaining flexibility provides for the most efficient use of funds and allows for NRCS to deliver the levels service needed to reach and provide technical assistance to all land stewards, not just those who may benefit from donated contributions.

4. *What mechanisms should USDA adopt to ensure that producers who receive contributed funds are sufficiently aware of the conditions for those funds?*

The agreement with the contributing entity should clearly define and assign responsibilities, communication protocols with applicants, and required environmental services or MMRV standards.

USDA should ensure there is regular and clear communication to NRCS employees, conservation districts, and others who work directly with landowner and operators. Access to written documentation and tools are also critical (e.g., access to the terms and conditions of the funding; webinars or presentation materials; one pagers or other collateral that can be distributed to potential producers during outreach; clear point of contact to ask questions and discuss further).

NACD also recognizes how challenging it is to learn and communicate new program rules, particularly when there are highly technical or nuanced questions relating to the terms and conditions of the non-federal program. While it is critical to have USDA coordination, donating entities and partners must also play a role in communicating with NRCS and conservation districts, as well as landowners and potential participants. Collaboration across all parties will be key to ensure that producers are aware of opportunities and the conditions for those funds.

5. *How should potential contributing entities best use this program to meet their goals? What might potential outcomes be?*

There are many successful private-public-philanthropic frameworks that help ensure resources are coordinated and directed towards mutual goals. NRCS already engages in these through the Working Lands for Wildlife framework, Sentinel Landscape Partnership, and many more. The SUSTAINS Act now provides NRCS the authority to engage even more effectively in these landscapes. This can help both parties achieve mutual goals in conservation and sustainability, while creating or strengthening local partnerships. NACD is hopeful that there is sufficient private sector interest in using this new authority to meet or contribute to environmental and conservation priorities.

6. *When evaluating options for implementing the SUSTAINS Act, how should USDA ensure the program is equitable and beneficial to farmers, ranchers, and rural communities, while still advancing maximum conservation benefits?*

USDA maintains the authority and responsibility to deliver agency's portfolio of conservation programs equitably and without discrimination. As contributing entities invest resources into public private partnerships, USDA should consider the comprehensive impacts on regions, companies, producers, and other entities benefiting from conservation projects, environmental



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credits, and other benefits supported through this new authority. USDA should also ensure that program outreach and other incentives available conform with existing program authorities.

NACD appreciates the opportunity to provide input to inform USDA's implementation of the *SUSTAINS Act*. This effort presents an exciting opportunity to bolster investments in voluntary, locally led conservation programs and accelerate implementation of effective conservation practices in every part of the country. We look forward to continuing working with you to support our country's locally led conservation delivery system.

Sincerely,

A handwritten signature in blue ink that reads "Kim LaFluer".

Kim LaFluer

President

National Association of Conservation Districts