

3. Counties may continue to qualify for funds available in the competitive grant fund up to the total maximum grant eligibility established pursuant to (b) above.

**2:76-17.9 Committee review of an application for the sale of a development easement from an eligible farm**

(a) At any time during the year, but subsequent to the Committee's approval of a planning incentive grant application, and prior to commencement of any appraisals to be submitted to the Committee for review and certification, the county shall submit to the Committee the following information for any eligible farm that the county intends to commence processing for purchase:

1. A completed application for the sale of a development easement;

2. Appropriate GIS mapping and soils analysis as required by the Committee;

3. Clear delineation of all proposed exception areas, whether severable or non-severable, all housing opportunities and all pre-existing nonagricultural uses that shall identify the information in (a)3i and ii below. Exception areas shall be permitted only if they do not cause a substantially negative impact on the continued use of the land for agricultural purposes.

i. The allocation of any residual dwelling site opportunities authorized pursuant to N.J.A.C. 2:76-6.17; and

ii. Any other residential opportunities that currently exist on the premises;

4. Confirmation that the farm meets the minimum eligibility criteria established by the county in its comprehensive farmland preservation plan developed in accordance with N.J.A.C. 2:76-17.4(b)4, and further provided as follows:

i. A member of the board or a member of his or her immediate family, is prohibited from selling or applying to sell a development easement on his or her property or from selling or applying to sell his or her property in fee simple title pursuant to the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq. and the Garden State Preservation Trust Act, N.J.S.A. 13:8C-1 et seq.

(1) "Member of the immediate family" means a member's spouse, child, parent, or sibling, residing in the same household;

5. Rank score of the farm based on the county's adopted ranking criteria;

6. Rank score of the farm based on the Committee's ranking criteria adopted pursuant to N.J.A.C. 2:76-6.16; and

7. Confirmation that each farm's individual rank score pursuant to N.J.A.C. 2:76-6.16 meets the requirements of an eligible farm as defined by N.J.A.C. 2:76-17.2 provided that:

i. If a farm fails to meet the minimum rank score in (a)5 and 6 above and the county wishes to preserve the farm using Committee funds provided for pursuant to this subchapter, the county may request from the Committee a waiver of the minimum score criteria.

(1) The Committee may grant a waiver of the minimum score criteria upon a finding that any of the following apply:

(A) The conversion of the farm to non-agricultural use will likely cause a substantial negative impact on the public investment made in farmland preservation within the project area;

(B) The subject property is of exceptionally high agricultural resource value based on soil characteristics; or

(C) The subject property represents a unique and valuable agricultural resource to the surrounding community, and the Committee finds that it has a reasonable opportunity to remain agriculturally viable.

(b) The Committee shall conduct a review of the application(s) for the sale of a development easement and confirm that it is complete and accurate and that it otherwise meets the criteria of (a) above.

1. If an application for the sale of a development easement is determined to be complete and meets the criteria as set forth in (a) above, the Committee shall notify the county in writing that the application is approved and that appraisals may commence pursuant to N.J.A.C. 2:76-17.10.

2. If an application for the sale of a development easement is determined to be incomplete, the Committee shall notify the county in writing to address the deficiencies.

i. Upon receipt and review of an amended application for the sale of a development easement that is determined to be complete and meets the criteria as set forth in (a) above, the Committee shall notify the county in writing that the application is approved and that appraisals may commence pursuant to N.J.A.C. 2:76-17.10.

**2:76-17.10 Appraisal of eligible farms**

(a) Upon Committee approval of an application for the sale of a development easement pursuant to N.J.A.C. 2:76-17.9(b), the county shall select two appraisers from the list of appraisers approved by the Committee pursuant to N.J.A.C. 2:76-6.22 to conduct independent appraisals of each farm to determine the market value of the development easement for which funding is requested.

1. The county shall provide to the appraisers a completed appraisal order checklist as required by the Committee and a copy of the application for the purchase of a development easement including, but not limited to, residential opportunities, exceptions, soils, wetlands and any other factors that may affect the market value of the development easement to the appraisers.

2. The appraisers shall perform appraisals in accordance with procedures detailed in the appraisal handbook for standards at N.J.A.C. 2:76-6.10, generally recognized appraisal practices, N.J.S.A. 4:1C-11 et seq., and 13:8C-1 et seq., P.L. 1999, c. 152, and the Committee's appraisal handbook.

(b) The two appraisers shall certify the current market value of the development easement as of a uniform date established by the county pursuant to (a)1 above.

(c) The valuation of a development easement for lands located in the Pinelands with Pinelands Development Credits shall be determined pursuant to N.J.S.A. 13:8C-1 et seq., P.L. 1999, c. 152, and 4:1C-11 et seq., N.J.A.C. 2:76-19 and the Committee's appraisal handbook.

(d) Upon completion of the appraisals, the appraisers shall forward the appraisal reports to a person designated by the county, who shall review the reports for completeness of contractual requirements.

(e) The county shall forward the completed appraisals to the Committee.

#### **2:76-17.11 Committee certification of development easement values**

(a) The Committee shall review appraisals of eligible farms only after they have been authorized for appraisal pursuant to N.J.A.C. 2:76-17.9(b).

(b) The Committee shall appoint a review appraiser to evaluate the appraisals submitted by the county and to recommend a market value of the development easement for each farm. The review appraisal shall be conducted in accordance with the appraisal standards contained in N.J.A.C. 2:76-10.

(c) The Committee shall have final authority for certifying the market value of the development easement pursuant to N.J.A.C. 2:76-6.8.

(d) The Committee shall certify the market value of the development easement and report the certified value to the county.

(e) The Committee may determine not to certify the market value of the development easement if an appraisal does not comply with the appraisal handbook for standards at N.J.A.C. 2:76-10 or generally recognized appraisal practices.

1. If the appraisal is not amended to comply with the appraisal handbook or generally recognized appraisal practices

within 60 days of the Committee review appraiser requesting such amendments, the Committee may invalidate the appraisal.

#### **2:76-17.12 Landowner offer**

(a) Within 30 days of receipt of the Committee's certification of market value of the development easement, the board shall report the certified value to the landowner.

1. The county may negotiate a purchase price of the development easement for an amount greater than or less than the Committee's certified market value of the development easement, but not greater than the higher of the two independent appraised development easement values determined pursuant to N.J.S.A. 4:1C-31(c) and 13:8C-1 et seq., P.L. 1999, c. 152 and N.J.A.C. 2:76-17.11.

2. If applicable, the county shall inform the landowner of the terms and conditions of any installment purchase agreements, options or potential donations.

(b) Within 60 days of the landowner's receipt of the Committee's certification of market value of the development easement, the landowner shall submit, in writing, an acceptance or rejection of the offer. A copy of the acceptance or rejection shall be provided to the Committee.

1. An offer by a landowner requesting to sell his development easement for a value that is greater than the higher of the two independent appraised development easement values determined pursuant to N.J.S.A. 4:1C-31(c), and 13:8C-1 et seq., P.L. 1999, c. 152 and N.J.A.C. 2:76-17.11 shall be deemed a rejection of the offer.

2. If the landowner accepts the county's offer, the county shall enter into an agreement with the landowner contingent upon the county's final review pursuant to N.J.A.C. 2:76-17.13 and the Committee's final review pursuant to N.J.A.C. 2:76-17.14 and shall provide a copy of the agreement to the Committee, and in the event municipal funds are provided, to the municipality.

3. If a landowner rejects an offer for an amount equal to or greater than the certified market value, the Committee shall not accept for processing any application for the sale of a development easement or for sale of land in fee simple pursuant to the planning incentive grant program or any other farmland preservation program authorized pursuant to N.J.S.A. 4:1C-11 et seq., or 13:1C-1 et seq. for two years from the date that the county originally submitted an application for the sale of a development easement. This provision applies only to an application from the same landowner for the same farm property.

#### **2:76-17.13 Final county review**

(a) The county shall approve or disapprove the acquisition of a development easement on an eligible farm based on total available funding and provide the following to the Committee: