

**New York City Department of Environmental Protection
Bureau of Water Supply**

**Land Acquisition Program
2021-2022 Solicitation Plan for the Catskill/Delaware System**

October 2020

*Prepared in accordance with Section 4.2 of the NYSDOH
2017 Filtration Avoidance Determination*



Prepared by: DEP, Bureau of Water Supply

Land Acquisition Program 2021-2022 Solicitation Plan

1. Introduction

The 2017 Filtration Avoidance Determination (FAD) requires the New York City Department of Environmental Protection (DEP) to submit plans for each two-year period to solicit 350,000 acres through the Land Acquisition Program (LAP) from 2018 through 2024; this cumulative goal translates to an average of 50,000 acres per year over the seven-year period. The 2017 FAD allows that acreage solicited through two of LAP's partner programs, the Streamside Acquisition Program (SAP) and New York City-Funded Flood Buyout Program (NYCFFBO), may be credited five acres for every one acre solicited. The 2017 FAD further allows that up to 20,000 acres per year of SAP, NYCFFBO, and Watershed Agricultural Council (WAC) solicitations may be credited towards DEP's overall solicitation goal. Thus, the core LAP's annual solicitation target is generally around 30,000 acres per year.

This 2021-2022 Solicitation Plan summarizes recent program activity and outlines projected solicitation activities for calendar years 2021 and 2022 for core LAP (prospective fee simple and conservation easements to be pursued by DEP) and the following LAP partner programs: SAP, NYCFFBO, the WAC Farm Easement Program (WAC Farm CEs), and the WAC Forest Easement Pilot Program (WAC Forest CEs).

Since issuance of the 2017 FAD, the pace of LAP solicitation activity has been impacted by two external factors: 1) the negotiation, review and approval of DEP's April 2018 Proposed Modifications to the Long-Term Land Acquisition Plan 2012-2022 (2018 Solicitation Modifications); and 2) the public health emergency in 2020 related to the novel coronavirus (COVID-19). As a result, solicitation activities during calendar years 2018 and 2020 were considerably below forecasts. DEP's 2021-2022 Solicitation Plan, presented below, is based on projections which may be adjusted as the COVID-19 pandemic evolves. In addition, pursuant to the 2017 FAD, the National Academy of Sciences, Engineering and Medicine's FAD Expert Panel issued its evaluation of the City's Watershed Protection Program in August 2020. DEP expects to discuss possible adjustments to LAP that were recommended by the Expert Panel with FAD regulators and watershed stakeholders starting in December 2020.

2. Recent Program Activity

As shown in Table 1, LAP has acquired 154,783 acres of land in the Catskill/Delaware System as of September 30, 2020. In the period covered by the 2019-2020 Solicitation Plan to date (January 1, 2019 through September 30, 2020), LAP signed to contract a total of 1,930 acres, which are included in the numbers below.

Table 1. LAP projects signed to contract or closed from 1997 through September 30, 2020 in the Catskill/Delaware System by program category.

Program Category	Number of Properties	Acres	Purchase Price
DEP Fee Simple *	1,433	97,369	\$371,909,000
DEP CE	170	25,933	\$72,229,000
SAP	27	209	\$1,465,000
NYCFFBO **	22	49	\$3,578,000
WAC Farm CE	157	28,241	\$41,552,000
WAC Forest CE	9	2,982	\$2,891,000
Program Totals:	1,818	154,783	\$493,624,000

* Includes properties acquired by the City and/or municipalities as part of two FEMA Flood Buyout Programs.

** Includes properties acquired by the City and/or municipalities using City funds.

3. Solicitation Accomplishments and Goals

This 2021-2022 Solicitation Plan calls for a continuation of targeted solicitations in accordance with the 2017 FAD and the 2012-2022 Long-Term Land Acquisition Plan (Long-Term Plan), with certain changes resulting from the 2018 Solicitation Modifications.

Table 2 shows actual solicited acreage for 2018 and 2019 as well as projected solicitation this year (2020) and for 2021 and 2022. Under the 2017 FAD, the goal for LAP solicitation over the full seven-year period from 2018 to 2024 is 350,000 acres, which can include a maximum of 20,000 acres per year from the LAP partner programs (WAC, SAP and NYCFFBO). Therefore, in order to meet the seven-year goal of 350,000 acres, core LAP solicitation has needed to average 30,000 acres per year.

Table 2. Actual and projected LAP solicitations during 2018-2022, in acres.

Year	Core LAP	WAC Farm + Forest CEs	SAP ⁽¹⁾	NYCFFBO ⁽¹⁾	Annual Credit ⁽²⁾
2018 (actual)	21,213	39,512	1,010	26	41,213
2019 (actual)	39,389	20,590	644	9	59,389
2020 (projected)	7,500	4,179	625	10	14,854
2021 (projected)	40,000	20,000	800	10	60,000
2022 (projected)	40,000	20,000	800	10	60,000
5-Year Totals:	148,102	104,281	3,879	65	235,436

Notes:

- (1) Under the 2017 FAD, SAP and NYCFFBO acreage is credited as five acres for each acre solicited. The figures above are the actual solicited acres and do not include the applicable credit.
- (2) Annual Total Credit is calculated as core LAP acres plus the solicited acres for the satellite programs after applying the five-for-one credit discussed above and accounting for the 20,000-acre limit under the 2017 FAD.

As shown in Table 2, core LAP solicitation since 2018 has varied widely, with 21,213 acres solicited in 2018, 39,389 acres in 2019, and 7,500 acres projected for 2020. The 2018 figure was less than originally planned due to the need to delay most outgoing solicitation to the latter part of 2018 while details of the 2018 Solicitation Modifications were finalized.

Solicitation in 2019 exceeded the 30,000-acre average annual goal, and DEP originally intended to solicit about 35,000 acres in 2020. However due to logistical and funding impacts related to COVID-19, 2020 solicitation, which is being accomplished solely by landowner call-ins, is now projected at 7,500 acres – with very little additional acreage expected from partner programs for similar reasons.

DEP expects to restart outgoing core LAP solicitations in 2021, with a goal of soliciting approximately 40,000 acres per year in 2021 and 2022 to place DEP back on track to meet the 350,000-acre FAD solicitation goal. As in 2018 and 2019, solicitations for partner programs are expected to meet or exceed the 20,000-acre annual credit during 2021-2022.

4. Partner Program Status and 2021-2022 Solicitation Plans

Under the prior FAD, DEP formally tracked solicitations for the LAP partner programs for the first time, with up to 10,000 acres credited in a given calendar year towards the cumulative LAP solicitation goal. This credit was raised to 20,000 acres under the 2017 FAD, and covers the three partner programs as described below.

4.1. WAC Forest Easement Pilot Program

WAC started to actively solicit properties for the pilot Forest Easement Program during 2015, primarily the owners of private forestland comprising 100 acres or more with an approved WAC Forest Management Plan or an active Forest Management Plan enrolled in the NYS Forest Tax Abatement Program.

WAC signed the first forest easement contract in September 2017 and closed on the first forest easement contract in September 2018. To date, as shown in Table 1, WAC has signed nine forest easement contracts totaling 2,982 acres, including a single easement covering more than 1,000 acres in the Cannonsville basin (Town of Walton). Having spent virtually all Forest CE funds as of 2019, WAC did not solicit properties for this component of the program during 2019 or 2020; the successor WAC CE contract is expected to register in late 2020, at which point solicitations for both the Forest and Agricultural CE Programs can resume in earnest and are projected at 20,000 acres annually for 2021-2022.

4.2 Streamside Acquisition Program (SAP)

The Catskill Center manages this \$8 million pilot program that is currently active only in the Schoharie basin. Since the Catskill Center initiated active solicitation in 2016, including 2020 solicitation year-to-date, the SAP has solicited over 4,300¹ acres, focusing primarily on small and mid-sized parcels (averaging eight acres in size) with intact, forested buffers along streams and wetlands. As shown in Table 1, the SAP has signed 26 contracts on 200 acres of riparian land; 19 of these contracts have closed.

¹ Program-to-date solicitation is calculated using annual “end-of-year” solicitation figures, together with year-to-date acres solicited if applicable. The 2019-2020 Solicitation Plan (see Table 2a) showed that SAP solicited 620 acres in 2016 and 1,432 acres in 2017. These figures, added to the annual solicitation for 2018, 2019 and 2020 (year-to-date) as reported in Table 2 of this Plan add up to 4,306 acres.

Once active outgoing solicitation resumes during 2021, DEP anticipates that the Catskill Center will maintain the same solicitation priorities during 2021-2022 as in previous years. The SAP's solicitation efforts will include re-solicitation of properties along selected stream reaches, targeted solicitation of new parcels neighboring previously-acquired properties, and solicitation in hamlet areas should a municipality pass a resolution to opt into SAP within designated areas.

The 2017 FAD contains a provision whereby the NYS Department of Environmental Conservation (NYSDEC) may direct the City to expand the SAP to the entire West of Hudson (WOH) watershed. Since the timing of a potential program expansion remains unknown at this time, this 2021-2022 Solicitation Plan assume that annual SAP solicitation will average 800 acres per year during the next two years.

4.3 New York City-Funded Flood Buyout Program (NYCFFBO)

The City developed the NYCFFBO in close collaboration with watershed communities; program rules are such that properties are generally identified for participation by local municipalities through a Local Flood Analysis or another local planning effort. Occasionally, an individual landowner whose property has undergone erosion or inundation will request to participate. Each town or county has an Outreach Coordinator (not employed by DEP) available to them who vets landowner inquiries for this program and forwards to DEP.

Although the total acreage solicited for the NYCFFBO is small (most recently 26 acres in 2018 and nine acres in 2019), these involve numerous lots, and acquisition of these small properties can have an outsized impact on water quality and flood hazard mitigation. To date under the NYCFFBO, municipalities have approved 45 properties for solicitation; DEP has appraised 35 of these properties and signed 22 contracts. Another five properties currently have accepted offers but are not yet in contract. Of the 22 signed contracts, 13 have closed and a number of closings are scheduled for late 2020 and early 2021. As further indication of program interest, these 22 signed contracts are spread across eight municipalities in four watershed counties (Delaware, Greene, Schoharie and Ulster). Based on this level of interest, DEP anticipates that solicitation in 2021 and 2022 will continue at a steady pace of approximately 10 acres per year, unless additional storm events occur which could increase interest.

5. Core LAP Status and Solicitation Priorities and Methods 2021-2022

As a result of the COVID-19 public health emergency, DEP halted outgoing solicitation, new appraisal orders, and new contract signings starting in March 2020. Those activities are expected to recommence in 2021 and LAP is positioned to implement an accelerated solicitation schedule to meet its seven-year, 350,000-acre FAD goal. In the meantime, closing activities have largely continued (19 closings since March 15, 2020), and the owners of a number of properties have accepted offers and are awaiting the resumption of normal LAP activities. In the interim, DEP has continued to field landowner call-ins and conduct field visits to ensure that properties will be ready for appraisal once the COVID-induced LAP pause is released.

Once outgoing solicitation resumes, the primary methods and priorities for LAP solicitation as embodied in the 1997 Watershed Memorandum of Agreement (MOA) and subsequent Water Supply Permits issued by NYSDEC will continue. However, solicitation for the core LAP, now in its 24th year, is guided by more recent policy determinations, as detailed below.

First, DEP's 2012-2022 Long-Term Land Acquisition Plan identified goals and methods designed to focus future acquisitions on those portions of the Catskill/Delaware System with relatively lower levels of land in permanently-protected status. The goals of this Long Term Plan are implemented using the following strategies:

- Focus future LAP solicitation and acquisitions in WOH basins and sub-basins with less than 40% protected land. These "Areas of Focus" are primarily comprised of the three largest reservoir basins: Cannonsville, Pepacton and Schoharie. Using variable solicitation schedules, LAP has increased the frequency of resolicitation in Areas of Focus.
- Pursue compelling, water-rich properties throughout the Catskill/Delaware System, and focus on lands in high priority areas. In 2019, for example, DEP signed five purchase contracts in Priority Areas 1A, 1B and 2 for over 100 acres.
- Continue to implement LAP's Parcel Ranking tool, which provides an efficient and flexible method to identify the most appropriate properties for solicitation based on the best combination of features for watershed protection. The tool uses three inputs (size, percent surface water features, and slope) to develop a ranking of any property relative to others in the set. Prior to sending out solicitation letters, LAP undertakes further qualitative evaluations to assess additional information such as road frontage, feasible access, adjacencies, parcel configuration, land uses, and other features that are not accounted for by the ranking tool.

Second, DEP adopted the 2018 Solicitation Modifications that were designed to address concerns raised by watershed communities regarding the continued acquisition of developable land, while maintaining a robust core LAP in accordance with the FAD. Incorporating results from the 2010 Final Environmental Impact Statement (FEIS) 2017 Updated Town Level Assessments, DEP agreed to a number of specific changes to solicitation and project design:

- Limit outgoing solicitation, allowing only incoming solicitation in a town once 100% of the FEIS projection is reached or more than 4,000 acres have been acquired since 2010. This limitation, which currently includes Andes, Delhi and Walton, has had a significant impact on the rate of acquisition in these towns. Nevertheless, as a result of landowner-initiated solicitation, LAP signed agreements on five contracts for 440 acres of land in these towns since January 2019.
- Raise the minimum Surface Water Criteria (SWC) needed for acquisition from 7% to 15% for properties that do not adjoin City land. This change has had a minimal impact on solicitation, since it only addresses properties that do not adjoin previously acquired City land. Most properties solicited for core LAP acquisition in recent years have either

adjoined City land or contained SWC in excess of 7%. However, a number of properties brought to LAP via landowner call-ins were rejected due to this limitation.

- Raise the minimum SWC needed for acquisition to 30% within a half-mile zone around the 1997 MOA-designated hamlet areas. As a result of this change, some eligible and previously-eligible properties are no longer actively solicited, and discussions with some landowners about the configuration of prospective deals involves increased complexity due to the need to meet the 30% threshold. Properties – or portions thereof – with a high percentage of SWC continue to be favored for solicitation.
- If DEP has acquired either 60% of the FEIS projections or more than 2,000 acres, raise the minimum SWC to 50% within the half-mile zones around the 1997 MOA-designated hamlet areas. This change, which currently includes the towns of Middletown, Roxbury, Bovina, Kortright and Windham, has reduced the solicitation and acquisition of land in close proximity to hamlets in towns which have experienced a large amount of LAP acquisition. Since January 2019, LAP has entered into contracts on seven eligible properties for a total of 472 acres in these five towns.

6. Summary

This 2021-2022 Solicitation Plan outlines that DEP anticipates soliciting 60,000 acres in 2021 and 2022 (comprised of 40,000 core LAP acres plus 20,000 credited acres from partner programs). Based on these projections, DEP anticipates soliciting an estimated 248,000 acres through 2022, to be counted towards the cumulative 2017 FAD goal of 350,000 total acres during calendar years 2018 through 2024.

This Plan is subject to the recommencement of outgoing solicitation in 2021, following the pause due to the COVID public health emergency, as well as possible longer-term adjustments due to the recommendations of the FAD Expert Panel.