Regional Conservation Partnership Program

Easement Questionnaire and Tips

The USDA Natural Resources Conservation Service (NRCS) has developed a questionnaire to provide partner entities with information about proposal requirements and considerations for the Regional Conservation Partnership Program (RCPP). This includes questions related to easement activities for NRCS to provide clarity to potential applicants which will improve agreement negotiations and easement acquisition timelines upon selection. These questions are reflected below with information to consider during the pre-planning process.

While these items will help with pre-planning, NRCS encourages partner entity applicants to meet with their NRCS state conservationist and RCPP coordinator prior to submitting a proposal.

1. What NRCS resource concerns that are impaired or at risk of impairment will benefit from easement protection?

- Each partner proposed "conservation benefit" must clearly address how easement protection will reduce impairment or risk to the identified NRCS resource concerns and must be correlated with and improve the status of an NRCS resource concern.
- The easement purpose must support how the impairment of or risks to NRCS resource concerns will be reduced. Specific deed terms may be required for the easement to directly improve the status of the resource concerns identified.

2. NRCS holds the U.S.-held easement rather than a third party. A partner entity acquires and holds an Entity-held easement. Do you intend to include U.S.-held easements, Entity-held easements, or both?

- If an Alternative Funding Arrangement (AFA), U.S.-held easement is not an option. Beginning in Fiscal Year 2026, a U.S. Right of Enforcement (ROE) may be permitted in limited circumstances.
- If AFA up to 50 percent of the easement value, ROE is allowed for ACEP-ALE certified eligible entities acquiring ACEP-ALE like easements.
- The percent of NRCS contribution to the easement compensation value varies depending on the factors stated in the applicable Notice of Funding Opportunity (NFO).
- Be aware of the requirements for each type of easement that will be used, such as contributions, due diligence, deed terms, easement plans, and land eligibility.

3. If considering applying in a Critical Conservation Area (CCA):

- Each easement, including required restoration on the easement, covered by a CCA-funded project must address one or more CCA priority resource concerns. The priority resource concerns must be clearly stated in the easement purpose in the deed.
- Ensure alignment of the selected CCA priority resource concerns with the intended easement purpose, other selected resource concerns, and proposed conservation

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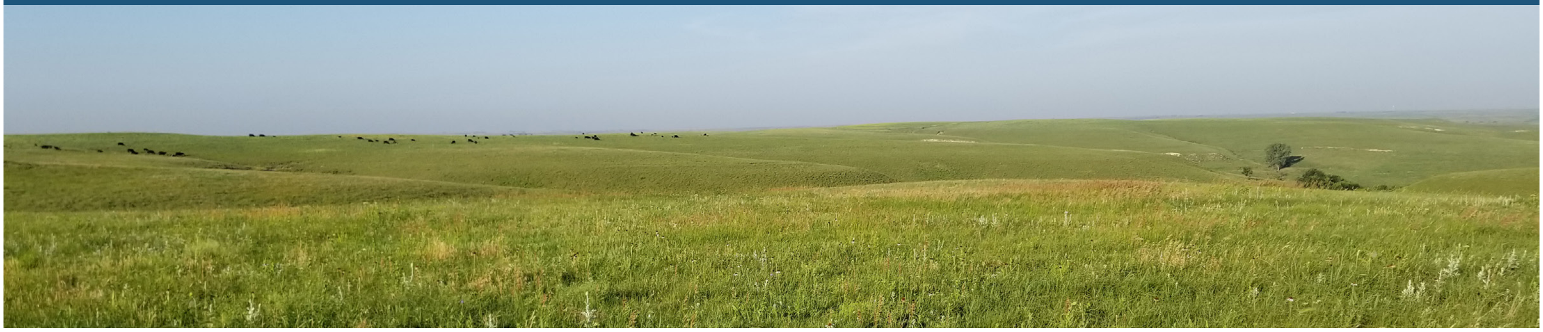
The Regional Conservation Partnership Program (RCPP) brings together the USDA Natural Resources Conservation Service (NRCS) and partners to further conservation, restoration, and sustainable use of natural resources.

NRCS provides financial and technical assistance to implement conservation activities through partnerships to tackle priority natural resource concerns on eligible land on a regional or watershed scale.

RCPP makes available a variety of NRCS conservation activities to help partners, agricultural producers, and private landowners address local and regional natural resource challenges. Partner entities, who work with farmers on the ground, take the lead in submitting project proposals to NRCS.



- benefits.

4. Describe your experience/familiarity with acquiring easements:

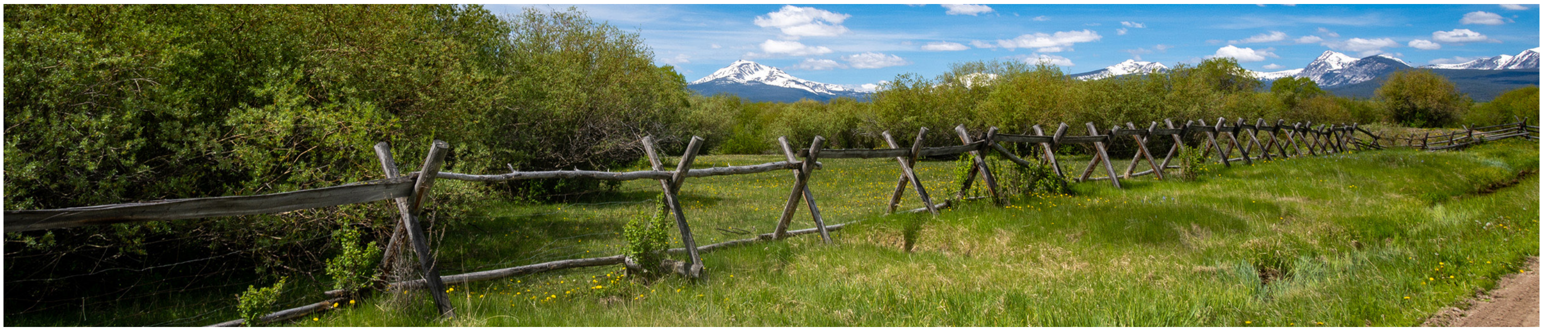
- Note: More discussion between NRCS and RCPP applicant will be required if the applicant lacks easement acquisition experience or does not have an identified eligible partner entity that has the authority to hold easements.
- Experience and familiarity with acquiring easements should include the thorough investigation and assessment of properties through due diligence, easement deed and plan development, and closing. Due diligence includes valuations, title conditions, mineral rights, environmental conditions, legal surveys, and baseline documentation reports.

5. Will your proposal identify pre-selected parcels? If not, describe how your project plans to enroll parcels:

- Parcels specifically identified in the proposal must be determined eligible by NRCS prior to skipping the competitive ranking phase.
- If you are not pre-selecting parcels, please consider the ways you can obtain applications, through open application sign-up periods or solicitation of properties in a specific watershed or for a specific resource concern.
- Any pre-selected parcels must be identified in both the proposal and the Program Partnership Agreement (PPA) to be considered a pre-selected parcel.

6. Entity-held easement considerations:

- Partner involvement
    - Discuss the partner entities or other parties who are expected to be involved in easement acquisition, what their role would be (e.g., eligible entity, co-holder, third party rights holder), how they have experience to serve in that role, and what other specific functions they plan to perform.
    - Projects using entity-held easements must ensure the eligible entity is fully engaged in the PPA development process.
- U.S. Right of Enforcement. (Note: Beginning in Fiscal Year 2026, a U.S. ROE may be permitted in limited circumstances.)
    - If AFA up to 50 percent of the easement value, U.S. ROE is allowed for ACEP-ALE certified eligible entities acquiring ACEP-ALE like easements. If no U.S. ROE, 25 percent of the easement value.
    - RCPP cost-share is provided to the eligible entity for the easement purchase which is paid to the landowner upon closing the easement. Funding levels are established in the NFO and vary based on the inclusion of the U.S. ROE and project type.
- ALE Certified Entity Flexibilities through RCPP
    - The 2023 and 2024 NFOs provided that an applicant could request the use of their ALE certified entity status in the acquisition of ALE-like easements through RCPP. This flexibility would be documented in the subsequent RCPP PPA and Supplemental agreement Type IV "Program Agreement". The request must be specially stated in the proposal.
    - Partner Contributions, funding, and staff. (Note: Any due diligence costs that will be partner contributions must be performed or procured by the partner entities and not the landowners.)



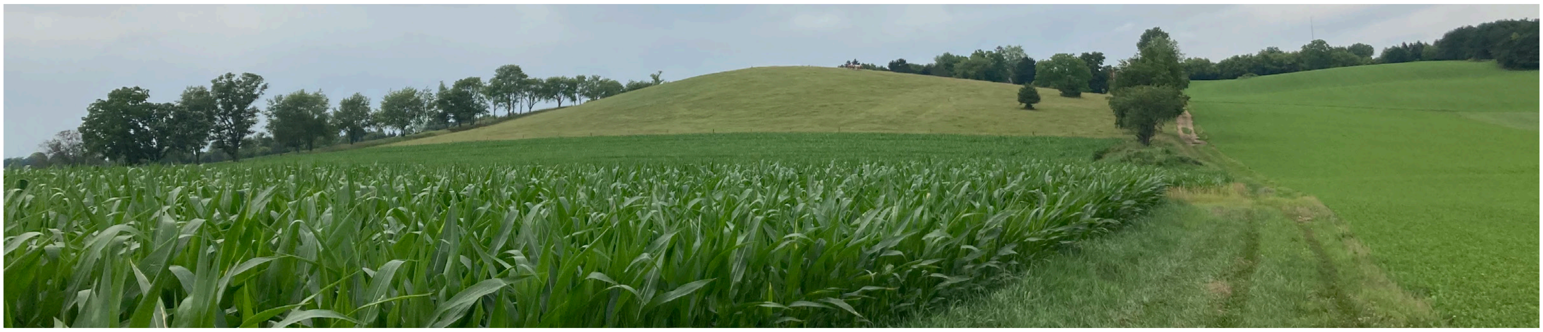
The eligible entity must have the capacity to:

- Provide cash or landowner donation to meet non-Federal share of acquisition cost requirements.
- Determine fair market value using approved RCPP valuation methods.
- Obtain a legally sufficient boundary description of the easement area and associated legal access.
- Develop RCPP Easement Plan (with or without NRCS assistance as requested.)
- Develop or obtain a baseline documentation report.
- Obtain clear title and easement closing services.
- Monitor and enforce easements during the term of the RCPP project and through perpetuity.
- The lack of funds could, in part, necessitate a landowner donation, which could limit the pool of applicants.

- Non-standard vs. standard valuation and deeds
    - Example of standard valuation process is a before and after appraisal. A non-standard process is an alternative valuation which can be considered by NRCS if included in the proposal.
    - Standard easement deeds either attach or incorporate NRCS minimum deed terms. Non-standard easement deeds include template deeds that can be used in limited circumstances. All deeds must be reviewed and approved by NRCS.
    - If the partners want to use alternative valuation or a deed template, NRCS will determine if they already have something approved or have already reached out to the NRCS Easement Program Division (EPD) national appraiser or EPD national realty specialist.
    - If partner expects to enroll any parcels through Buy-Protect-Sell (BPS) procedures, further discussion is warranted with an easement specialist. Note: only preclosing transfer BPS is allowed under RCPP; post-closing transfer BPS is not permitted.

7. U.S.-held easement considerations

- Partner involvement in U.S.-held enrollments:
    - Generally, NRCS is responsible for U.S.-held acquisition activities from application (including selection or confirmation of appropriate deed) to closing. However, NRCS may elect to engage a partner via supplemental agreements to provide contracted due diligence products, such as Phase 1 environmental site assessment or title commitments.
    - Partners cannot be a grantee on any U.S.-held easement deed.
- Easement valuation:
    - Standard valuation is a before and after appraisal. Partners wishing to use an alternative valuation method must submit them to the NRCS national appraiser prior to the end of the NFO deadline to ensure the methods can be approved for use. Send to:
- Easement valuation:



- Most, if not all, moderately or highly restrictive easements require restoration.
- Ensure proposal reflects anticipated restoration activities.
- If a proposal includes easements that require restoration or other land treatment to address the targeted resource concerns and conservation benefits, the project budget must include a request for RCPP funds and/or propose partner contributions to cover those needs. An RCPP Easement Plan will be required, and NRCS will assist with planning.
- Contracting mechanisms for restoration are separate from those used for easement acquisition (i.e., through land management activity contracts or partner contributions).

For More Information

You can also read more about the Regional Conservation Partnership Program on the NRCS website at www.nrcs.usda.gov under the Programs and Initiatives tab. Producers interested in applying for financial assistance within an RCPP project should contact their local office which can be found at: www.nrcs.usda.gov/contact/find-a-service-center. Additional information to assist with the development of RCPP projects may be found at: www.nrcs.usda.gov/programs-initiatives/rcpp-regional-conservation-partnership-program/rcpp-easements.

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