



Natural Resources Conservation Service
U.S. DEPARTMENT OF AGRICULTURE

Regional Conservation Partnership Program (RCPP)

2024 Notice of Funding Announcement



This presentation will be recorded and made available on the [How to Apply to RCPP](#) website

FARM PRODUCTION AND CONSERVATION
FSA | NRCS | RMA | Business Center

Agenda

I. Introduction

Carrie Lindig, NRCS

II. FY 2024 NFO Overviews

Marcus Griffin, NRCS

III. Entity-held Easements

Tim Aaron, NRCS

IV. US-held Easements

Michael Bilancione, NRCS

V. Proposal Tips and State Conservationist Questionnaire Easement Addendum

Stephanie Goglia, NRCS





Natural Resources Conservation Service
U.S. DEPARTMENT OF AGRICULTURE

FY 2024 NFO Overviews



Speaker: Marcus Griffin

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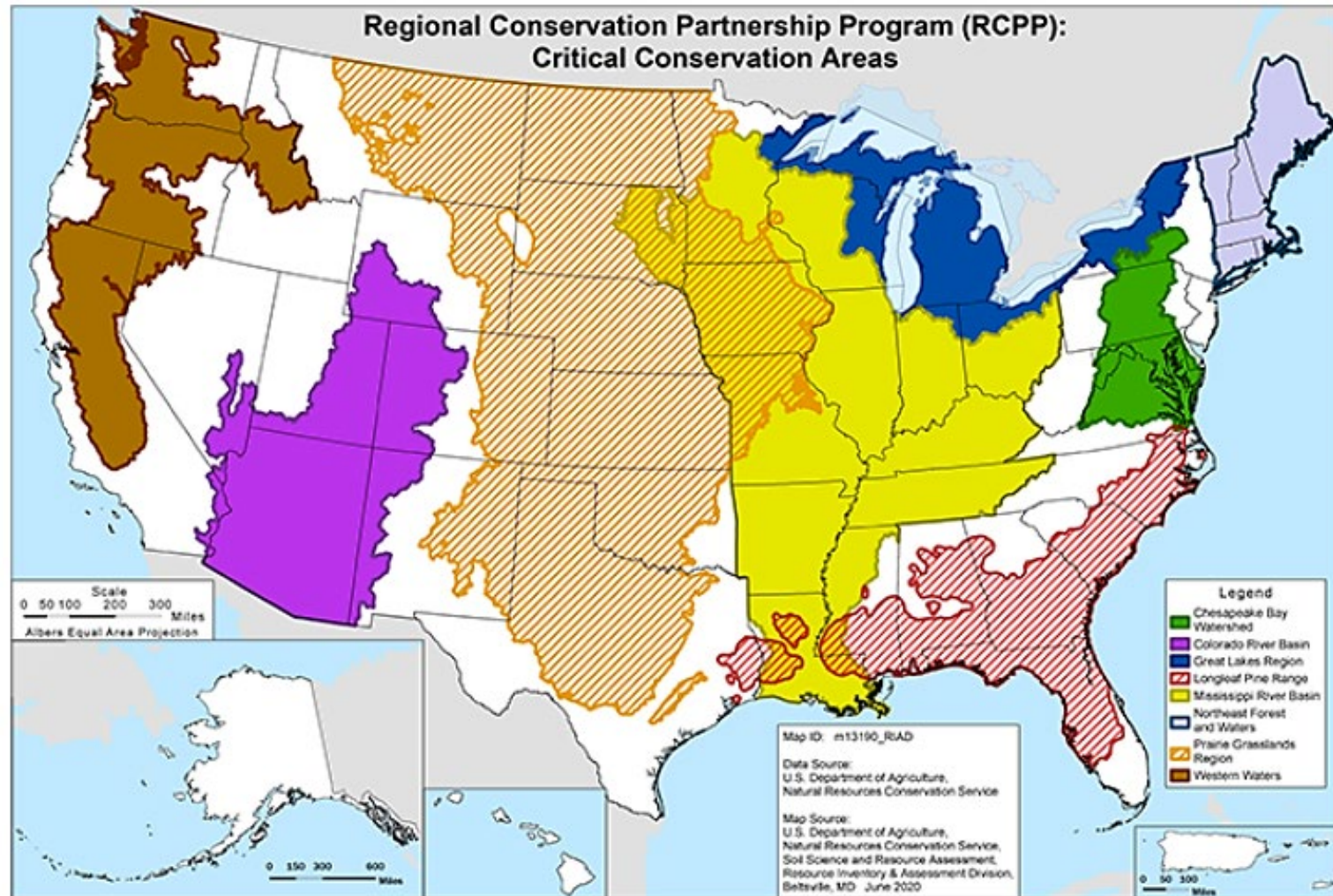
Notice of Funding Opportunities (NFO)



FY2024 Classic and Alternative Funding Arrangement (AFA) NFOs running concurrently NFOs were posted April 3, 2024

- Proposal submission deadline: July 2nd, 2024, by 4:59 PM Eastern.
- \$1.5B Classic and AFA RCPP Funds Available
 - \$300M 2018 Farm Bill Funds
 - \$1.2B Inflation Reduction Act Funds
 - 50/50 between Critical Conservation Area funding and state or multistate funding pool

RCPP Funding Pools



State/Multi-State

Can include any RCPP resource concern or conservation benefit.

Critical Conservation Areas

- Project *and all activities including easements* under this **project must address at least one CCA-specific priority resource concern.**
- Single proposal cannot include multiple CCAs.
- See the [RCPP website](#) for more information.

Notice of Funding Opportunities (NFO)



RCPP FY2023 NFO was posted April 3, 2024

- Proposal submission deadline: **July 2nd, 2024 by 4:59 PM Eastern.**
- **\$25M – Maximum** RCPP Funding Amount for Individual Project.
- **\$250K – Minimum** RCPP Funding Amount for Individual Project
- **\$100M – Set-aside** between RCPP Classic and AFA for **Tribal Entities**
- **25% – Cap** for **Technical Assistance (TA)** funds

RCPP Program Overview

What

Carry out **eligible activities** to further the conservation, protection, restoration, and sustainable use of **soil, water, wildlife, agricultural land, and related natural resources** on eligible land on a regional or watershed scale.

Where

On **eligible land**, which is Private or Tribal agricultural land, nonindustrial private forest land, or associated land on which an eligible activity would help achieve the **conservation benefits** defined for an approved project.

RCPP Program Overview

How

NRCS and partners co-invest in conservation activities to achieve conservation benefits and address natural resource concerns.

Duration

Agreements are **typically five years**.

RCPP Eligible Activities

Eligible Activity

Land Management

Rental

US-held Easement

Entity-held Easement

Public Works & Watersheds



RCPP Easement Opportunities

Entity-held Easements

Purchased and held by an Eligible Entity.

- **RCPP Classic**
- **RCPP Alternative Funding Arrangement (AFA)**

US-held Easements

Purchased and held by the United States, by and through NRCS.

- **RCPP Classic *Only Opportunity***

Concerns / Benefits / Values

Resource Concerns

A specific natural resource problem that is likely to be addressed successfully through the implementation of the eligible activities.

Conservation Benefits

Improvements in the status of resource concerns, and other similar goal in the RCPP project area.

Conservation Values

Establish specific purpose of the RCPP easement. Stated in the RCPP conservation easement deed.

Conservation Values Explained

What are Conservation Values?

The natural resources being protected, and the resource concerns being addressed consistent with the conservation benefits identified at the RCPP project level and as agreed-to in the individual RCPP programmatic partnership agreement (PPA).

- RCPP easements further the restoration, protection, management, maintenance, enhancement, and monitoring of those conservation values on eligible lands.
- Specifically Identified in Individual Easement Deed.
- Derived from RCPP PPA Conservation Benefits/Resource Concerns.

2018 Farm Bill RCPP Easement Deed Terms

Highly Restrictive

- Restoration/Protection of native habitats in natural/historic condition.
- Minimal disturbance, No agricultural uses.

Moderately Restrictive

- Management of specific habitats to provide conservation benefits.
- Conservation activities to manage/maintain conservation values.

Minimally Restrictive

- Protection of agricultural uses, including grazing uses.
- Rights related to agricultural use remains.

Roles and Responsibilities

Responsibility	Responsible Party	Responsible Party
	Entity-held Easements	US-held Easements
RCPP Funds for Easement Purchase are Provided	To Eligible Entity for their purchase of a conservation easement from an eligible landowner.	To Landowner by NRCS for the sale of a conservation easement to the United States.
Easement Purchase Agreement	Between Landowner and Eligible Entity aka. Written Pending Offer	Between Landowner and NRCS aka. Agreement to Purchase Conservation Easement
Obtain and Pay for Easement Acquisition-Related Items (e.g., appraisal, survey, title, recording, etc.)	Eligible Entity	NRCS

Roles and Responsibilities

Responsibility	Responsible Party	
	Entity-held Easements	US-held Easements
Easement Holder	Eligible Entity	United States <i>By and through NRCS</i>
Co-holders	Other Entities <i>If identified by Eligible Entity</i>	None
Third-party right holders	Other entities <i>If identified by Eligible Entity</i>	None

Roles and Responsibilities

Responsibility	Responsible Party	
	Entity-held Easements	US-held Easements
Funds for Required Easement Restoration	None	Restoration costs must be included in project budget.
		Highly and Moderately Restrictive Easements only
Monitoring, Stewardship, and Enforcement of Closed Easement	Easement Holder <i>Eligible Entity</i>	NRCS

RCPP Use of Funds

Partner Contributions:

Any portion of the non-Federal share (easement match) expended during the life of the PPA

Can count as a contribution to RCPP project.

Eligible entity's cost for acquisition-related items

May count toward RCPP project contribution but not toward easement match (non-Federal share for easement purchase).

RCPP TA Funds:

May not be used for entity-held easement acquisition-related costs/due diligence expenses
e.g., appraisal, survey, title, etc.



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RCPP Entity-held Easements



Speaker: Tim Aaron

FARM PRODUCTION AND CONSERVATION
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RCPP Entity-held Easements

Topics

1. Overview of entity held easements and the acquisition process
 - Including updates resulting from the ongoing RCPP improvement efforts and the FY 2024 NFO
2. Common issues and tips to overcome them

Updates to RCPP Entity-held Easements

As a result of the ongoing RCPP improvement efforts and the recently published FY24 RCPP NFO – there are several changes that impact RCPP entity-held easements

1. Alternative Valuation Methodologies
2. Alternate process for ACEP-ALE certified entities
3. Revised maximum federal cost share rate
4. Sample RCPP deeds
5. Use of approved ACEP-ALE templates

RCPP Entity-held Easement Acquisition Process

PPA

- Proposal will describe easement activities and resources that partner intends to protect with easements
- If applicable, propose alternative valuation method, certified entity status and use of approved ALE template at this time.
- Enter into PPA

Program Agreement (Type IV supplemental agreement)

- Entity Application
 - Confirm entity eligibility
 - Confirm consistency of conservation values statements with PPA
- Parcel Application
 - Check land and landowner eligibility
 - Perform preliminary due diligence
 - Rank application

Option 1 (expedited)	Option 2
Deed submitted/approved	Estimated value submitted/approved
Appraisal submitted/approved	Enter parcel contract/obligate
Enter parcel contract/obligate	Deed submitted/approved
Closing	Appraisal submitted/approved
	Closing

Entity Eligibility

Eligibility mirrors ACEP-ALE entity eligibility types

- State or local government.
- NGO organized for one or more conservation purposes specified in Section 170(h)(4)(A) of the Internal Revenue Code.

Entity Requirements

- **Authority to purchase** conservation easements.
- **Established land protection program** that purchases conservation easements that protect the types of natural resource(s) in the PPA.
- **Demonstrated commitment** to the long-term conservation of the types of land.
- **Capability and staff capacity** to acquire, manage, monitor, and enforce easements.

ACEP-ALE Certified Entities

-In ACEP-ALE, certified entities are afforded certain flexibilities and relaxed NRCS review requirements. There are, however, no certified entities under RCPP.

-FY 2024 NRCS introduced the concept of existing ACEP-ALE certified entities being able to “act like” a certified entity when acquiring RCPP entity-held easements in certain limited circumstances.

-To avail themselves of these flexibilities – the following requirements must be met

1. Lead partner must request in their RCPP proposal to use the alternative entity-held easement process for certified entities.
2. The eligible entity who will hold the RCPP easements must be certified under ACEP-ALE at the time the PPA is entered.
3. If NRCS approves, then the entity will indicate on their entity and parcel application that they wish to proceed using the certified entity process.
4. Alternative process is only available for “ACEP-ALE like” easements – meaning that the purpose of the easement and the deed terms must be substantively the same as those used in ACEP-ALE.

ACEP-ALE Certified Entities Alternative Processes for RCPP

If approved to act like a certified entity on ACEP-ALE like RCPP entity held easements – the following flexibilities/changes to the standard acquisition process apply. This alternative process will be attached as an exhibit to the RCPP Program Agreement

1. Limited pre-closing review of appraisals by NRCS
2. Ability to use the RCPP Minimum Deed Requirements rather than the RCPP minimum deed terms
3. Limited preclosing NRCS deed review
4. No NRCS title review prior to closing
5. Limited National Internal Controls reviews prior to closing

Conservation Values/Purpose of the Easement

Project-level Conservation Benefits/ Resource
Concerns in PPA

Conservation Values Statement / Purpose in Entity
Application and Program Agreement

Easement-specific Conservation Values Statement /
Purpose in Parcel Application, Parcel Contract, and Deed

Note

For CCA projects – the priority resource concern for the CCA must be addressed in the conservation values statement in the program agreement and ultimately the easement deed.

Conservation Values

Common Issues – Easement Deed Drafting

Issue: What if the conservation values do not address resource concerns?

Requirement: Conservation Values in the easement deed must address the resource concerns stated in the PPA.

- RCPP funding **must address the resource concerns** set forth in the PPA.
- Addressing the RCPP resource concerns must be the **primary conservation purpose** of the deed.
 - Other conservation values may be included **if they are consistent with the primary conservation purposes** and identified as associated conservation purposes.

RCPP Easement Deed Requirements

Classic RCPP

- RCPP minimum deed terms must either be attached verbatim or incorporated verbatim into the body of the deed.
- May elect to use one the NRCS preapproved RCPP entity held easement sample deeds.
 - Agricultural deed (similar to ACEP-ALE)
 - Riparian Area deed
 - Forestland (woodland habitat or at risk species protection)
- Previously approved ACEP-ALE template option available in limited circumstances.

AFA RCPP and ACEP-ALE Certified Entities

- Must address RCPP Minimum Deed Requirements.
- Can elect to use the appropriate set of MDTs, attached or incorporated.
- No US Right of Enforcement for AFA.

General Requirements

- The selected set of minimum deed terms must be used in its entirety (i.e., no mixing of individual terms from MDTs).
- Must be approved by EPD prior to appraisal.

Minimum Deed Terms (MDT) Option

Select most appropriate MDT for project purposes



RCPP Minimum Deed Terms for Protection of Conservation Values
(Highly Restrictive)



RCPP Minimum Deed Term for Conservation Use with Compatible Agricultural Use
(Moderately Restrictive)



RCPP Minimum Deed Terms for Agricultural Use
(Minimally Restrictive)

Note

- **Two versions of the terms are available**, one with and without terms related to a right-of-enforcement by the United States.
- Partner may request in Proposal to use an approved template deed, with appropriate adjustments for RCPP.

Preapproved Sample RCPP Deeds

In addition to the minimum deed term option NRCS has published 4 preapproved sample RCPP entity held easement deeds that incorporate the RCPP minimum deed terms and can be used in their entirety.

Following are the available sample deeds. We will continue to add to this library of deeds as needed

- Agricultural / ACEP-ALE like
- Riparian areas
- Forestland / woodland habitat
- Forestland / at-risk species

Note

Deeds and deed terms must align with the project resource concerns and conservation benefits. Although the deeds listed here are “pre-approved” all final deeds must still undergo NRCS review prior to closing unless otherwise specified in policy.

Use of ACEP-ALE Approved Templates

In addition to the minimum deed terms and sample deeds, NRCS can now approved the use of previously approved ACEP-ALE templates in limited circumstances

- The template must have been previously approved for use under the 2018 farm bill for ACEP-ALE.
- The template must be proposed for use as part of the PPA proposal negotiations
- NRCS will review the template and, if approved, it will be attached to the RCPP program agreement – with edits being made to conform to RCPP authorities.
- Template can only be used for agricultural easements that are similar to ACEP-ALE

Note

What is “similar to ACEP-ALE” in the context of templates and certified entities?

- Same purpose as ACEP-ALE
- Substantively similar deed terms (i.e. minimally restrictive)

RCPP Minimum Deed Requirements

In addition to all of the previously discussed options, there is an additional option available for entities acquiring easements under an AFA RCPP and entities approved to act like a certified entity for RCPP.

That additional option is the minimum deed requirements. The deed requirements afford additional flexibility to entities in incorporating NRCS deed requirements into their deeds.

If applicable, the NRCS minimum deed requirements will be attached as an exhibit to the RCPP Program Agreement

Valuation Estimates

Prior to entering a Parcel Contract, entity must provide either of the items below:

Defensible and Documented Estimate of Easement Value

Must include methodology.

Appraisal of the Proposed Easement Area

Must use NRCS appraisal specifications or an approved alternative valuation methodology.

Note

Estimates used for obligation of RCPP funds only. NRCS-approved appraisal required for payment.

NRCS National Appraiser Estimate Review

- No specific form is required.
- Non-conforming appraisal, by itself, is likely insufficient.

Example Estimate Methodology

Scenario:

- Proposed RCPP easement using minimally restrictive deed terms that are substantively similar to ACEP-ALE.
- NRCS closed on 10 ACEP-ALE easements in the past 3 years in same geographic area. The easements showed a 60% diminution in value.
- Agriculture property in area is currently valued at about \$4000/acre.

Determination: Easement estimated to be \$2400/acre for X number of acres.

Valuation

Appraisals Timing Considerations

Appraisal should be obtained **prior to obligation**.

- Eliminates need for review of valuation estimate.
- Parcel is nearly ready to close soon after the parcel contract is signed.

Draft conservation easement deed must be submitted to and approved by NRCS **prior to the appraisal being completed** regardless of whether an appraisal is obtained prior to or after entering the RCPP parcel contract.

Effective date of appraisal = **no more than 12 months** prior to the individual parcel contract execution date.

Valuation, Federal Share, Contribution

FY 2023 NFO allows for use of alternative valuation methods in place of a USPAP appraisal for RCPP easements. Proposal should explain the alternative valuation methodology and why it is feasible for the types of lands being enrolled.

Examples of Alternative Valuation Methods

- Existing partner appraisal process
- Other industry approved valuation methods

Note

If using alternative methods, applicant must consult with the State RCPP coordinator and EPD National Appraiser before submitting proposal.

Valuation, Federal Share, Contribution

Easement value

- Before/after appraisal obtained by the Eligible entity following NRCS appraisal specifications; or
- Approved alternative valuation method

Federal Share = Maximum percentage of easement FMV US can contribute to easement purchase

- ❖ Varies based on
 - Year of applicable NFO
 - AFA vs. Classic
 - US ROE vs. no ROE
 - Involvement of HU landowners

Non-Federal Share = Remainder of Easement Value

- May be comprised of:
 1. Eligible Entity cash for easement payment to landowner.
 2. Landowner donation or qualified contribution that reduces easement purchase price.

Maximum Federal Cost Share

Notice of Funding Opportunity	Classic RCPP			AFA RCPP		
	Includes US Right of Enforcement (ROE)	No US ROE	Historically Underserved (HU) Landowner	Includes US ROE	No US ROE	HU Landowner
FY 2019	50%	25%	N/A	50%	25%	N/A
FY 2020-2022	50%	25%	N/A	N/A	25%	N/A
FY 2023	50%	25%	If the RCPP entity-held easement transaction will directly facilitate the purchase of land by a HU producer than an additional 25% Federal share is available.	N/A	25%	N/A
FY 2024 and beyond	50%	25%	If the RCPP entity-held easement is being purchased on land owned or being purchased by HU landowners, then an additional 25% Federal share is available.	N/A	40%	If the RCPP entity-held easement is being purchased on land owned or being purchased by HU landowners, then an additional 25% Federal share is available.



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RCPP US-held Easements



Speaker: Michael Bilancione

FARM PRODUCTION AND CONSERVATION
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RCPP US-held Easement Deeds

- Standard terms cannot be changed.
- Acquisition subject to Department of Justice (DOJ) Title Regulations.
- NRCS on behalf of US is the only easement holder.
- Entirely new features from other NRCS US-held easements.

Selecting the Easement Deed



- Select based on the resource concerns and conservation benefits identified in PPA.
- Must be appropriate to achieve stated Conservation Values.
- Exhibit E: Conservation Activities, Additional Prohibitions
Moderately/Minimally Restrictive Only.

RCPP US-held Easement Deeds

Easement Type	Form Number	Form Name/Info
Highly Restrictive	NRCS-CPA-1300	“RCPP Warranty Easement Deed for Protection of Conservation Values ”
Moderately Restrictive	NRCS-CPA-1301	“RCPP Warranty Easement Deed for Conservation Uses ”
	NRCS-CPA-1301-Exhibit E	1)Authorized Conservation Activities 2)Additional Prohibitions
Minimally Restrictive	NRCS-CPA-1302	“RCPP Warranty Easement Deed for Working Lands ”
	NRCS-CPA-1302-Exhibit E	1)Authorized Conservation Activities 2)Agricultural Production 3)Additional Prohibitions

RCPP Deed - Purpose and Intent

Purposes and Intent. *The purpose of this easement is to further the restoration, protection, management, maintenance, enhancement, and monitoring of the conservation values of the Easement Area described below in Part I consistent with the conservation benefits of a Regional Conservation Partnership Program project on the Easement Area (the “Conservation Values”). The Conservation Values specifically include [ENTER CONSERVATION VALUES STATEMENT (see list of examples)].*

RCPP Deed Purpose and Intent Examples: Highly Restrictive

“Maximizing the functional values of wetlands, riparian areas, floodplains, and associated habitats; Providing conservation benefits including habitat for wetland-dependent wildlife, aquatic, and plant species, water quality improvement, flood water retention, groundwater recharge, environmental education, and related conservation values.”

“Maximize the functional values of floodplains, wetlands, riparian areas, and other lands; and for the conservation of natural values including fish and wildlife and their habitat, water quality improvement, flood water retention, groundwater recharge, open space, aesthetic values, and environmental education; and to safeguard lives and property from floods, drought, and the products of erosion.”

RCPP Deed Purpose and Intent Examples: Moderately Restrictive

*“Promoting the recovery of at-risk wildlife, aquatic, and plant species populations; improving biodiversity; increasing carbon sequestration; and sustaining healthy **forests** ecosystems and related conservation values.”*

*“Sustaining the health and vigor of **native grassland, forb, and shrubland**, wildlife habitat, and other natural characteristics of the property; protecting and providing habitat for threatened, endangered, or at-risk species; protecting sensitive or declining native grasslands; protecting highly sensitive natural resources; and increasing carbon sequestration.”*

RCPP Deed Purpose and Intent Examples: Minimally Restrictive

*“Protecting the **agricultural use and future viability**, and related conservation values, by limiting nonagricultural uses that negatively affect the agricultural uses and related conservation values.”*

*“Protecting **grazing uses and related conservation values** by limiting non-grassland uses that negatively affect the grazing uses and related conservation values.”*

RCPP Easement Deed Comparison Guide

Regional Conservation Partnership Program (RCPP) Easements Held by the United States (RCPP US-held Easements)			
<i>Comparison of RCPP Warranty Easement Deeds for RCPP US-held Easements</i>			
RCPP Deed Name and Form Number	RCPP WARRANTY EASEMENT DEED FOR PROTECTION OF CONSERVATION VALUES (NRCS-CPA-1300)	RCPP WARRANTY EASEMENT DEED FOR CONSERVATION USES (NRCS-CPA-1301)	RCPP WARRANTY EASEMENT DEED FOR WORKING LANDS (NRCS-CPA-1302)
Level of Restrictiveness of Easement	Highly Restrictive	Moderately Restrictive	Minimally Restrictive
STANDARD EASEMENT DEED TERMS			
Purposes and Intent	In this section, must state the ‘Conservation Values’, which are the natural resources being protected and the resource concerns being addressed as identified in the NRCS-approved RCPP PPA.		
PART I. Description of the Easement Area and Access	Surveyed and described easement area (Exhibit A) and right of ingress and egress for access to the easement area (Exhibit B).		
PART II. Reservations in the Landowner on the Easement Area. As specifically described in the RCPP Warranty Easement Deed and subject to the rights, title, and interest conveyed by the Easement Deed to the United States.	Title	Title	Title
	Quiet Enjoyment	Quiet Enjoyment	Quiet Enjoyment
	Control of Access	Control of Access	Control of Access
	Undeveloped Recreational Uses	Undeveloped Recreational Uses	Undeveloped Recreational Uses
	Subsurface Resources (Exhibit C)	Subsurface Resources (Exhibit C)	Subsurface Resources (Exhibit C)
	Water Rights and Water Uses (Exhibit D)	Water Rights and Water Uses (Exhibit D)	Water Rights and Water Uses (Exhibit D)
		Conservation Activities, in accordance with terms and conditions described in Exhibit E	Conservation Activities, in accordance with terms and conditions described in Exhibit E
		Baseline Documentation Report (BDR), Exhibit F	Baseline Documentation Report (BDR), Exhibit F
		Existing Structures, as described in Exhibit F, BDR	Structures, within Building Envelopes as described in Exhibit G

RCPP Easement Deed Comparison Guide

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		Existing Roads, as described in Exhibit F, BDR	Existing Roads, as described in Exhibit F, BDR
		Existing Utilities, as described in Exhibit F, BDR	Existing Utilities, as described in Exhibit F, BDR
		Motorized Vehicle Use	Motorized Vehicle Use
		Fences	Fences
			Agricultural Production, in accordance with Exhibit E
			Renewable Energy Production, within Building Envelope as described in Exhibit G
			Drainage and Irrigation
			Temporary or Seasonal Activities
PART III. Obligations of the Landowner on the Easement Area. <i>As specifically described in the RCPP Warranty Easement Deed, Landowner must comply.</i>	Prohibitions 1) Never allowed 2) US may authorize use subject to Compatible Use Authorization (temporary uses)	Prohibitions 1) Never allowed 2) US may authorize use subject to Compatible Use Authorization (temporary uses) 3) US may authorize use subject to Long-Term Use Authorization (long-term uses)	Prohibitions 1) Never allowed 2) US may authorize use subject to Compatible Use Authorization (temporary uses) 3) US may authorize use subject to Long-Term Use Authorization (long-term uses)
	Noxious Plants and Pests	Noxious Plants and Pests	Noxious Plants and Pests
	Fences	Fences	Fences

Valuation and Payment

Easement value determined by individual before-and-after appraisal based on the Deed.

- Must be appraised prior to making offer to the landowner.
 - Agreement for the Purchase of Conservation Easement (APCE)
 - Executed between NRCS and the landowner.

Change in FY 2023 NFO

- NRCS may pay up to 100% of easement value for any US-held Easement.

Note

PPAs awarded prior to FY 2023 - NRCS payment rate varies, and landowner acknowledges payment rate on APCE.

Required Restoration Practices

NRCS may identify restoration needs that must be fulfilled for the site to be eligible.



- **Highly or Moderately Restrictive US-held easements Only.**
- NRCS **purchases the rights** to conduct required restoration activities from the landowner through the RCPP Easement Deed.
- To be eligible, **funds must be available** in the PPA to complete all required restoration.
- Selection of an easement for funding includes the **requirement to fund any NRCS-required restoration** on a highly or moderately restrictive US-held easement.

Note

This does not include additional conservation practices that the Landowner may request or NRCS may recommend.

Costs, Payment, and Contribution Limitations and Requirements

NRCS is responsible for the acquisition of the easement, including obtaining and paying for easement acquisition-related items.



- NRCS will pay up to 100% of the easement-acquisition related costs on all US-held easement types.
- NRCS may also pay up to 100% for the cost of restoration on the easement area as determined by NRCS for highly and moderately restrictive easements.

Costs, Payment, and Contribution Limitations and Requirements

All technical assistance (TA) and FA costs for the RCPP US-held easement must be accounted for in the PPA budget.

FA costs include but are not limited to:

- Cost of the easement itself.
- All acquisition-related costs.
- For highly or moderately restrictive easements, the costs of required restoration activities as determined by NRCS.
- For moderately or minimally restrictive easements, procurement of the baseline documentation report when not prepared by NRCS.



Note

Must be sufficient funds available in the PPA budget for entirety of easement transaction for a US-held easement to be eligible for funding selection.

Third Party Contributions

A partner or other third-party may contribute toward a RCPP US-held easement in the following ways:

Provide funds or in-kind services for:

- **Design or implementation of restoration activities** on the easement area for highly or moderately restrictive easements.
- **Management activities** on the easement area through an agreement with the landowner.
- Provision of certain **easement acquisition-related items** for NRCS review and approval through a contract or agreement directly with NRCS.

Provide in-kind services for:

- **Outreach** to disadvantaged or underserved communities.

Provide funds for:

- Payment of **easement compensation** to the landowner into escrow (this is uncommon).

Note

In no circumstances will the RCPP Warranty Easement Deed include any rights-of-enforcement or other interests to another party.

Third Party Contributions

Partner Funds or Qualified In-kind Services

- Provided by the partner or third-party **may be counted** as a contribution under the PPA subject to its terms.

Limitation on Landowner Contributions

- Funds contributed by the landowner **may not be included** as a contribution under the PPA, including but not limited to:
 - The difference between the fair market value of the easement and the easement compensation amount paid to the landowner for the easement itself.
 - Any actual costs or in-kind services provided by the landowner for restoration or other activities on the easement.

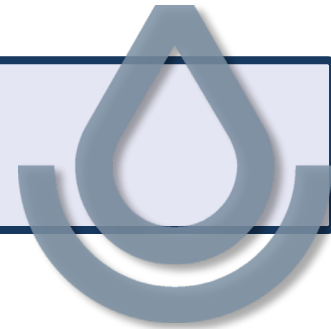
RCPP US-held Easements

Acquisitions serviced by Easement Acquisition Branch (EAB) and National Office of the General Counsel (OGC)

- Based on PPA, Conservation Values Statement and Exhibit E, drafted by State NRCS staff in consultation with EAB.
- State NRCS staff selects easement for funding, coordinates with lead partner, and prepares needed technical plans and reports.
- EAB manages acquisition with input from State, OGC, Landowner, EPD, Farm Production and Conservation – Business Center.

Reminder:

The United States always has final say on which Deed it will use to acquire an easement, the Conservation Values Statement, and as applicable the terms of the Exhibit E.



High-level RCPP US-held Easement Phases

1

Pre-acquisition

Information Gathering, Preliminary Evaluations

Landowner interest and objectives; Application; Eligibility; Assessment, planning, including as needed preliminary restoration planning, design and cost-estimates; ranking; Preliminary due diligence and investigations; Easement valuation; Selection for funding; Pre-obligation internal controls; Enrollment Agreement and Fund Obligation

PPA

Identifying objectives, Resource Concerns, Conservation Benefits, Ranking considerations; Properties identified; PPA amendments

Individual Easements

RCPP Easement Deed selection, conservation values statement drafting, Exhibit E drafting (moderately/minimally restrictive); Tentative Selection for Funding; Easement valuation determined by before-after appraisal

2

Acquisition

Finalizing Investigations, Documenting Determinations

General Easements Activities

Finalizing due diligence and investigations; Finalizing Eligibility Determinations; Easement Boundary Surveys; Baseline Documentation Report; Completing Easement Plans, including restoration designs and costs; Obtaining OGC Preliminary and Final Title Opinions; Pre-payment Internal Controls; Closing and Recording; Issuing Payment

RCPP Unique Activities

Acquisition administered by EAB and National OGC

Baseline documentation reports (moderately/minimally restrictive)

Building envelopes (minimally restrictive only)

3

Post-acquisition

Restoration, Monitoring, Long-term Oversight

Implementing restoration; Annual monitoring; Updating plans; Issuing Compatible Use Authorizations or long-term use authorizations for appropriate activities; Enforcement and Violations

Variable Conservation Values and Exhibit Terms

Enforcement is more singular;

Exhibit Es – authorized Conservation Activities, additional prohibitions (moderately/minimally restrictive only);

Long-term use authorizations (moderately/minimally restrictive only)



Natural Resources Conservation Service
U.S. DEPARTMENT OF AGRICULTURE

Proposal Tips and State Conservationist Questionnaire Easement Addendum



Speaker: Stephanie Goglia

FARM PRODUCTION AND CONSERVATION
FSA | NRCS | RMA | Business Center

NFO: Proposal Questions

Proposal questions are written broadly allowing partners to address things such as....

RCPP Vision and Goals

- Impact
- Partner Contribution
- Partnership and Management

Administrative Priorities










- Climate Smart Agriculture and Forestry (Inflation Reduction Act)
- Advancing Equity, Justice, and Equal Opportunity
- Projects led by Indian Tribes
- Urban Agriculture



STC Questionnaire Easement Addendum

How to Apply to RCPP

Resources for Submitting a Proposal

-  [RCPP Coordinator List \(85.51 KB\)](#)
-  [RCPP FY2024 Proposal Guide for Partners \(1.99 MB\)](#)
-  [RCPP Outcome Guidance \(199.04 KB\)](#)
-  [RCPP Partner Contribution Template \(41.4 KB\)](#)
-  [RCPP Proposal FAQs \(459.05 KB\)](#)
-  [RCPP Technical Assistance Guidance Fact Sheet \(314.58 KB\)](#)
-  [RCPP State Conservationist Questionnaire \(224.24 KB\)](#)
-  [RCPP State Conservationist Questionnaire Easement Addendum \(213.4 KB\)](#)
-  [RCPP Notice of Funding Opportunity Proposal Support Questionnaire \(255.55 KB\)](#)

<https://www.nrcs.usda.gov/programs-initiatives/rcpp-regional-conservation-partnership-program/how-to-apply>

RCPP State Conservationist Questionnaire – Easement Addendum

- Intended for FY 2024 NFO pre-proposal project discussions. Included by reference in the FY 2024 NFO
- If Lead Partner is not the entity which will acquire and hold the easements, include the partners that are eligible entities in the meeting

Natural Resources Conservation Service
Regional Conservation Partnership Program
State Conservationist Questionnaire - Easement Addendum

Lead Partner Name:

Project Name:

Signature:

Date:

1. What conservation benefits are you hoping to achieve by enrolling easements? Which NRCS resource concerns will be addressed by these conservation benefits?
2. Considering whether the project is Alternative Funding Arrangement (AFA) or Classic, do you intend to include US-held easements, Entity-held easements, or both?
3. *For Critical Conservation Area (CCA) funded projects only*, which of the resource concerns identified in Question #1 address at least one of the CCA Priority Resource Concerns (PRC)?
4. What is your familiarity with the requirements associated with acquiring easements? (valuation methodologies, title clearance, hazardous materials reviews, legal surveys, closing, etc.)
5. Do you have specific parcels targeted for easement acquisition? If not, do you have plans to identify parcels for enrollment?
6. For Entity-Held Easement activities:
 - a. Which partner involved in the project has the authority to acquire, manage, steward, and monitor easements of the type that you wish to enroll? Will there be other entities involved in the easement acquisition as coholders or third-party right holders, and if so, what is their role?
 - b. Do you plan for these easements to provide for a US right of enforcement? (Classic only)
 - c. Is the acquiring easement partner certified under the Agricultural Conservation Easement Program?
 - d. Do you currently have funds and/or staff secured for proposed contributions, easement acquisition activities, monitoring, and stewardship?
 - e. Do you intend to buy a conservation easement using a before and after appraisal with standard deed language? If not, do you have an alternative valuation method and/or customized deed language you will request?
7. For U.S.-Held Easement activities:
 - a. What involvement do you expect to have in U.S. Held Easement enrollments?
 - b. Are you aware that using alternative valuation methods to determine the easement cost will require review and approval?
 - c. Do you anticipate restoration of the enrolled U.S.-Held easements? If yes, will you be requesting restoration funding through RCPP?

Lead Partner Input

- ☑ **Geographic Area**
- ☑ **Resource concerns, conservation benefits**
- ☑ **Conservation values and easement purpose**
- ☑ **Land Uses**
- ☑ **Ranking/Prioritization Factors**
- ☑ **Application Bundling**



Landowner Eligibility

All current landowners of record must...

- ☒ Provide documented **evidence of current ownership**.
- ☒ **Be eligible for USDA payments**, as determined by the Farm Service Agency (FSA) and NRCS.
- ☒ **Have current records in the FSA system**, including a Farm Operating Plan (CCC-902).
- ☒ **Be compliant with Highly Erodible Land and Wetlands Conservation** (HEL/WC) provisions.

Landowner Eligibility (cont.)

All current landowners of record must...

- ☑ Comply with **Adjusted Gross Income** (AGI) provision.
- ☑ **Supply all information required by NRCS** for eligibility determination.
- ☑ **For legal entities or joint operations, provide a list of all members and embedded entities** with each members' tax identification numbers and percentage interest in the legal entity.

Land Eligibility

Land may be eligible for enrollment if it is-

- Private or Tribal agricultural land, nonindustrial private forest land, or associated land.
- **Capable of supporting the identified conservation values** and the planned future condition of the proposed easement area subject to the terms of the selected conservation easement deed.
- Within the approved **PPA project area**.

Land Eligibility (cont.)

Land may be eligible for enrollment if it is-

- **Sufficient Size and Proper Boundary Configuration.**
- **Physical and Legal Access to Easement.**
- **Sufficient Funds Available in the RCPP PPA for all Required Costs.**
- **For Entity-held Easements Only** - Subject to a written pending offer by the eligible entity.

Ineligible Land

Land may be ineligible for enrollment if it is-

- ❖ Owned by a State or local government or by a nongovernmental organization required to protect the stated conservation values.
 - Limited exception for an entity-held easement on agricultural land acquired through a buy-protect-sell transactions.
- ❖ Owned by an agency of the United States, other than acreage owned by an Indian Tribe.
- ❖ Subject to an easement or deed restriction which provides similar restoration and protection as would be provided though a RCPP easement.

Ineligible Land (cont.)

Land may be ineligible for enrollment if it is-

- ❖ Adverse onsite or offsite conditions that would undermine, preclude, or interfere with the purposes.
 - E.g., Hazardous materials, permitted or existing rights-of-way, infrastructure development, adjacent land uses.
- ❖ Unacceptable title issues
 - E.g., Lack of clear title, inadequate physical or legal access, mortgages or liens that cannot be subordinated.
- ❖ Mineral exploration
 - E.g., Third party rights to minerals that interfere with the conservation values or surface rights.
- ❖ Excessive Costs
 - E.g., Restoration, management, or monitoring costs to the Federal Government are determined to be excessive for area.

NFO: Proposal Questions

NFO questions are written broadly – for easement activities, items include:

- Which RCPP Easement type and Deed selection.
 - Entity-held Minimum Deed Terms
 - US-held Warranty Easement Deed
- Relate selected Resource Concerns to the easement Conservation Values Statement(s).
- For CCA funding, which priority resource concern will the easement activity address.
- Identify clearly with name and location any known targeted parcels (does not guarantee eligibility).

FY 2024 NFO Deed Options



Entity-held Easements

May use NRCS-approved ACEP-ALE template* or an NRCS sample deed.



US-held Easements

May use Minimally, Moderately, Highly or an NRCS model deed.

***NRCS will make appropriate adjustments to include RCPP**

Request must be included in the proposal.

Example Proposal Narrative Response

Describe the RCPP activity type (e.g., producer land management or rental contracts, entity-held easements) proposed for the project and how each identified activity will achieve conservation benefits.

... For entity-held easements, Forever Land Trust will **attach the Moderately Restrictive Deed Terms** to address the **resource concerns** of “**long-term protection of land**” against “**threat of conversion to non-grassland uses**”. The easement will restore cropland to grassland and the **easement deed terms and RCPP easement plan** will address the resource concern “**field sediment, nutrient and pathogen loss**” to address the **Critical Conservation Area (CCA) Great Lakes Region water quality degradation priority resource concern...**

Example Proposal Response

Identify any specific properties which the lead partner has determined would further objectives of this RCPP project (pre-selected, but inclusion does not guarantee an FA award).

... For entity-held easements, Forever Land Trust has been working to acquire a conservation easement on the **552-acre Green Family Farm in Notrealia County along the Notrealia river.**

If this project is selected for funding Forever Land Trust intends to use the RCPP entity-held easement activity Financial Assistance funds to acquire an easement **pending RCPP eligibility determinations by NRCS.**

As the farm is directly adjacent to the Notrealia River, putting it in permanent grassland and having an RCPP Easement plan with a grassland management component will address the objective to **prevent conversion to non-grassland and reduce sediment and improve the degraded water quality for this project** and more broadly, in the Great Lakes CCA...

Best Practices

Final Tips to help ensure an efficient process!

- ✓ Meet with NRCS State Conservationist, State RCPP Coordinator and State Easement Programs Staff early and often. Use the State Conservationist Questionnaire Easement Addendum.
- ✓ Clearly identify the Conservation Values and explain how the selected easement option will successfully address the resource concerns.
- ✓ Easement holder is responsible for its own due diligence.
 - For entity-held easements, the eligible entity is responsible to conduct and pay for its due diligence.
 - For US-held easements, NRCS is responsible to conduct and pay for its due diligence. **The NRCS Easement Acquisitions Branch (EAB) administers the acquisition of easements selected by the States.**
- ✓ Submit your proposed RCPP Easement Deed and any alternative easement valuation process as part of the proposal.

RCPP Parcels

Pre-selection of parcels

RCPP proposals can identify critical parcels that meet the project's conservation goals and objectives.

Application Bundles

Lead partner can submit to NRCS a bundle of landowner applications that receive priority consideration through the NRCS ranking process.

Note

Pre-selection does not guarantee the project will be funded. All landowners and lands must meet eligibility requirements, sufficient funds must be available, and the application must meet applicable program and PPA requirements as determined by NRCS.

Programmatic Partnership Agreement (PPA)

What is the role of the PPA?

- Creates bridge between RCPP programmatic requirements and individual applications.
- Informs which RCPP deed (level of restrictiveness) should be used to acquire an easement.
- Informs the Conservation Values Statement, and related deed terms.

Key PPA Elements

Purpose and Objectives

Priorities/Ranking Considerations

Conservation Benefits

Conservation Values Statements

Note: A PPA amendment may be needed to achieve alignment

Summary of FY 2024 NFO changes:

- Entity-held easement Historically Underserved federal share increase
- Increased AFA share: up to 40% of the easement value
- Certified Entities*
- Model deeds for US-held easements
- Sample deeds for entity-held easements
- Alternative Valuations* (in FY 2023 too)
- Use of ALE Deed templates*
- Use of State Conservationist's Questionnaire

Must be **requested at proposal stage*

Resources for Assistance

Resource	Description
rcpp@usda.gov	For partner's RCPP questions
nrcs.nationalappraisers@usda.gov	Where to submit requests for alternative valuations
RCPP Coordinators	State NRCS contacts for overall RCPP implementation and project management
RCPP Easement Resources Library	RCPP easement resources page contains Minimum Deed Terms (MDT) for Entity-held easements; US held easement form deeds; and more.

Note: RCPP Manual revisions will be published very soon.

Resources for Assistance

RCPP Conservation Activities

RCPP projects may include a range of on-the-ground conservation activities implemented by farmers, ranchers and forest landowners. These activities include:

- Land management/land improvement/restoration practices
- Land rentals
- Entity-held easements
- United States-held easements
- Public works/watersheds

A single RCPP project application can propose to employ any combination of these eligible activity types as part of an RCPP project.

For more information on RCPP easements, [visit the RCPP easement page](#).



RCPP EASEMENT RESOURCES LIBRARY


The resources below are provided to assist with the development of RCPP projects, from selecting deeds to aligning conservation values and resources concerns, to process aids for project proposals and easement valuation. This RCPP Easement Resource Library will be added to as additional resources become available.

Deeds: Entity Held Easements


The following Pre-Approved deeds and Minimum Deed Terms are available for project use. Deeds and deed terms must align with the project resource concerns and conservation benefits. Although the deeds listed here are “pre-approved” all final deeds must still undergo NRCS review prior to closing unless otherwise specified in policy.

All entity-held easements entered into under a RCPP project must use one of the six sets of

Partners should work with their RCPP State Coordinator to determine the appropriate MDT for a given project.


 [AFA Minimum Deed Requirements](#) (125.49 KB)

 [Exhibit 531.206T - Entity held MDT comparison](#) (178.41 KB)

 [RCPP Entity Held Easement for Agricultural Use \(Minimally Restrictive\) -With Right of Enforcement](#) (292.5 KB)

 [RCPP Entity Held Easement for Agricultural Use \(Minimally Restrictive\) -No Right of Enforcement](#) (367.6 KB)

 [RCPP Entity Held Easement for Compatible Ag Use \(Moderately Restrictive\) -With Right of Enforcement](#) (292.29 KB)

 [RCPP Entity Held Easement for Compatible Ag Use \(Moderately Restrictive\) NO Right of Enforcement](#) (286.4 KB)






 [RCPP Entity Held Easement for Conservation Values \(Highly Restrictive\)-No Right of Enforcement](#) (252.62 KB)

 [RCPP Entity Held Easement for Conservation Values \(Highly Restrictive\) With Right of Enforcement](#) (259.25 KB)

Deeds: US-Held Easements

The following Pre-Approved deeds and Minimum Deed Terms are available for project use. Deeds and deed terms must align with the project resource concerns and conservation benefits. Although the deeds listed here are “pre-approved” all final deeds must still undergo NRCS review prior to closing unless otherwise specified in policy.

The following US-held form deeds require approval by NRCS prior to use in a project:


-  [NRCS CPA 1300 US Held Easement Highly Restrictive \(258.37 KB\)](#)
-  [NRCS CPA 1301 US Held Easement Moderately Restrictive \(244.24 KB\)](#)
-  [NRCS CPA 1301E US Held Easement Moderately Restrictive Exhibit E \(145.17 KB\)](#)
-  [NRCS CPA 1302 US Held Easement Minimally Restrictive \(257.15 KB\)](#)
-  [NRCS CPA 1302E US Held Easement Minimally Restrictive Exhibit E \(174.4 KB\)](#)

Conservation Values Statements

Each deed (US or Entity-held) requires a Conservation Values Statement that addresses the resource concerns identified in the RCPP Project Partnership Agreement. While the statement is reviewed and approved at the time of the deed review, RCPP Partners should discuss the conservation benefits and resource concerns of their agreement with the state RCPP Coordinator and appropriate NRCS staff members prior to selecting conservation values statement for a project or particular deed.

Table of sample conservation values statements coming soon.

Process Aids

 [RCPP State Conservationist Questionnaire Easement Addendum.pdf](#) (213.4 KB)

Valuation Aids

 [RCPP Appraisal Specifications and Statement of Work.pdf](#) (283.36 KB)



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U.S. DEPARTMENT OF AGRICULTURE

Questions?

For more information visit
NRCS-USDA.Gov and navigate
to page [How to Apply to RCPP](#)

For a list of State RCPP Coordinators scroll
down to the section called “Resources for
Submitting a Proposal”.



National RCPP Team: RCPP@usda.gov

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