



United States Department of Agriculture

Regional Conservation Partnership Program (RCPP) 2023 Notice of Funding Announcement

Easements Overview



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Agenda



- I. Introduction**
Juan Hernandez, *NRCS*
- II. Overview**
Stephanie Goglia, *NRCS*
- III. Entity-held Easements**
Tim Aaron, *NRCS*
- IV. US-held Easements**
Jessica Groves, *NRCS*
- V. NFO and Proposal Tips**
Stephanie Goglia, *NRCS*

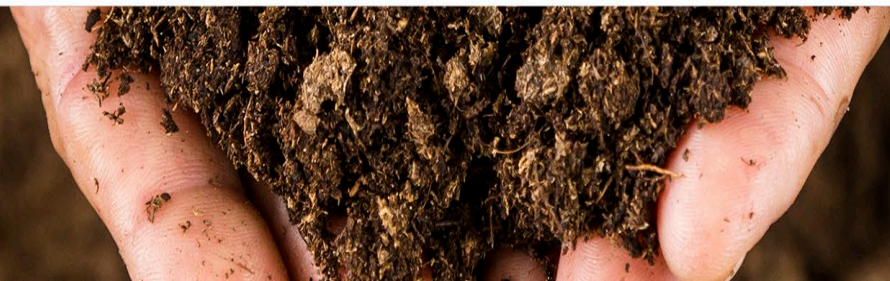




United States Department of Agriculture

FY 2023 NFO & RCPP Overview

Speaker:
Stephanie Goglia



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Notice of Funding Opportunity (NFO)



RCPP FY2023 NFO was posted May 19, 2023

- Proposal submission deadline: **August 18th 4:59 PM Eastern.**
- Selections projected mid-December.

\$500M total RCPP Funds Available

- **\$25M – Maximum** RCPP Funding Amount for Individual Project.
- **\$50M – Set-aside** for **RCPP Alternative Funding Arrangements**.
(AFAs) with 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.

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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	Associated Covered Programs
Land Management	EQIP/CSP ACEP-WRE & HFRP (<i>restoration component</i>) PL-566 Land Treatment Activities
Rental	CRP
US-Held Easement	ACEP-WRE & HFRP (<i>easement acquisition component</i>)
Entity-Held Easement	ACEP-ALE (<i>easement acquisition component</i>)
Public Works & Watersheds	PL-566



RCPP Easement Opportunities



Entity-held Easements

Purchased and held
by an Eligible Entity.

- **RCPP Classic**
- **RCPP AFA**

US-held Easements

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

- **RCPP Classic**
Only Opportunity

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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.

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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.



Deed Requirements

Entity-held Easements



Must attach or incorporate on of the RCPP minimum deed terms to the eligible entity's conservation easement deed.



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)

- ▶ **Two versions of the terms are available**, one with and without terms related to a right-of-enforcement by the United States.
- ▶ **Partner may propose to use an easement template approved under ACEP-ALE** with appropriate adjustments made for RCPP authorities, funding, and project purposes.



Deed Requirements US-held Easements



Must use one of the RCPP easement deeds:

- 1 RCPP Warranty Easement Deed for Protection of Conservation Values**
(Highly Restrictive)
- 2 RCPP Warranty Easement Deed for Conservation Uses**
(Moderately Restrictive)
- 3 RCPP Warranty Easement Deed for Working Lands**
(Minimally Restrictive)

A partner may request in their proposal that NRCS use a US-held easement deed available under another NRCS easement program:

- Grassland Reserve Program (GRP)
- Wetland Reserve Easements (ACEP-WRE)
- Healthy Forest Reserve Program (HFRP)
- Emergency Watershed Protection Program – Floodplain Easements (EWPP-FPE)

NRCS will incorporate RCPP authorities into the selected program deed

Roles and Responsibilities



Responsibility	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 <i>aka. Written Pending Offer</i>	Between Landowner and NRCS <i>aka. Agreement to Purchase Conservation Easement</i>
Obtain and Pay for Easement Acquisition-Related Items (e.g., appraisal, survey, title, recording, etc.)	Eligible Entity	NRCS



Roles and Responsibilities



Responsibilities	Responsible Party Entity-held Easements	Responsible Party US-held Easements
	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> United States Right of Enforcement <i>If selected, RCPP Classic only</i>	None

Note

For **entity-held easements** that include co-holders or third-party right holders, be ready to identify those parties at the time the PPA is executed.

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Roles and Responsibilities



Responsibilities	<i>Responsible Party</i> Entity-held Easements	<i>Responsible Party</i> 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



Lead Partner Input into RCPP Easements



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



Proposal Development



When developing a proposal, RCPP applicants and lead partners must work closely with NRCS State Conservationists

Development Steps

- 1 Determine if proposed project aligns with RCPP goals / policies.**
- 2 Frame conservation benefits in terms of NRCS resource concerns** (discuss all the NRCS practices that might be needed to ensure full scope of resource concerns are identified).
- 3 Understand RCPP eligible activities** and which activities are suited to treat NRCS resource concerns within the proposed project area.

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Proposal Development



Development Steps (cont.)

- 4 **Identify and negotiate partner technical assistance** needs and capabilities.
- 5 **Develop and submit a project proposal.**

Prior to proposal submission, an applicant interested in using an alternative easement valuation method must first consult with the relevant RCPP coordinator and the NRCS Easement Programs Division valuation team at NRCS.NationalAppraisers@usda.gov.



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

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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.

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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.

Adjusted Gross Income (AGI) Waiver Options under RCPP

1. AGI Applicability Waiver

Partners may request an AGI applicability waiver for the entire project during negotiations.

2. AGI Limitation Waiver

Individual landowner participants may request an AGI limitation waiver, if there is not an AGI applicability waiver for the project.

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.

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Ineligible Land (cont.)



Land may be ineligible for enrollment due to -

- 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.





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RCPP Entity-held Easements

Speaker:
Tim Aaron



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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.

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Key Differences between ACEP-ALE and RCPP Entity-held Easements



- Conservation Values and Resource Concerns
- Land Eligibility
- Minimum Deed Terms and Deed Reviews
- Federal Share for easements that do not include a US ROE
- Valuation timing and estimates
- Ranking preselected parcels



Conservation Values



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 the basis for a conservation value in the program agreement and ultimately the easement deed.

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Minimum Deed Terms (MDT)



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.



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.

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RCPP Easement Deed Requirements

Classic RCPP

- RCPP minimum deed terms must either be attached verbatim or incorporated verbatim into the body of the deed.
- Template option available in limited circumstances.

AFA RCPP

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

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 – Template Option



FY 2023 NFO offers that an eligible entity may propose using a template RCPP conservation easement deed.

Only applicable as follows:

- Eligible entity must submit the draft template with their RCPP proposal.
- Draft template **must be a currently approved ACEP-ALE template**, to be updated to include required RCPP language.
- May only be used to acquire “ACEP-ALE like” easements through RCPP.

Valuation, Federal Share, Contribution

Easement value

Before/after appraisal obtained by the Eligible entity following NRCS appraisal specifications.

Federal share = NRCS maximum contribution

- 50% of Easement Value – with US ROE
- 25% of Easement Value – without US ROE
- Where easement will directly facilitate purchase of lands by historically underserved (HU) landowners Fed share may be:
 - **Up to 75%** for easements **with** a US Right of Enforcement
 - **Up to 50%** for easements **without** a US Right of Enforcement

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.

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

- Area Wide Market Analysis (AWMA)
- 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



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**.

- Whether an appraisal is obtained prior to or after entering the RCPP parcel contract.

Effective date of appraisal = **no more than 6 months** prior to the individual parcel contract execution date.

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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.

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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 Process

1. PPA

Resource concerns, propose alt valuation and use of deed template

1.1 Entity Application

1.2 NRCS
Approval

1.3 Program Agreement
– Conservation Values

2. Parcel Application

2.1 Eligibility
Determination

2.2 Due
Diligence

2.3 Ranking

2.4 Selection
for Funding

Option 1 (Expedited)

3.A.1 Draft deed submitted &
approved by EPD

3.A.2 Appraisal approved

3.A.3 Parcel contract

3.A.4 Closing

Option 2

3.B.1 Estimated value submitted & approved

3.B.2 Parcel contract

3.B.3 Draft deed submitted & approved

3.B.4 Appraisal approved

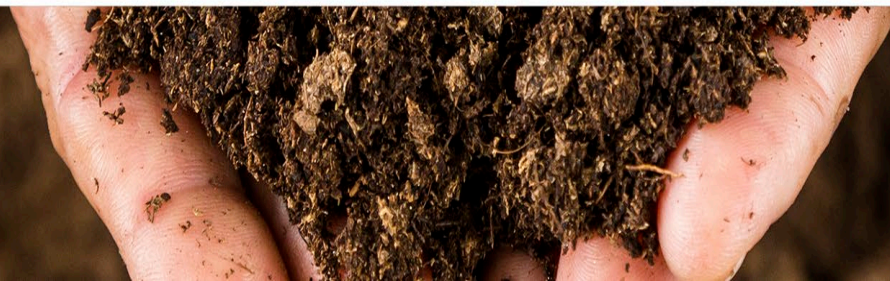
4.B.5 Closing



United States Department of Agriculture

RCPP US-held Easements

Speaker:
Jessica Groves



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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.

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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”
	NRCS-CPA-1301	“RCPP Warranty Easement Deed for Conservation Uses”
Moderately Restrictive	NRCS-CPA-1301-Exhibit E	1)Authorized Conservation Activities 2)Additional Prohibitions
	NRCS-CPA-1302	“RCPP Warranty Easement Deed for Working Lands”
Minimally Restrictive	NRCS-CPA-1302-Exhibit E	1)Authorized Conservation Activities 2)Agricultural Production 3)Additional Prohibitions

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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 to Purchase the Conservation Easement
 - 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.

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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.

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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:

- **Monitoring** of the easement area.

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 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

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

3

Post-acquisition

*Restoration, Monitoring,
Long-term Oversight*

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

RCPP Unique Activities

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

Acquisition administered by EAB and National OGC

Baseline documentation reports (moderately/minimally restrictive)

Building envelopes (minimally restrictive only)

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)

Service

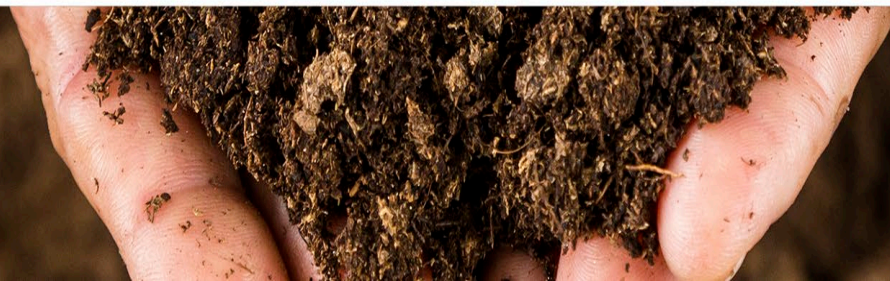
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Proposal and NFO Tips

Speaker:
Stephanie Goglia



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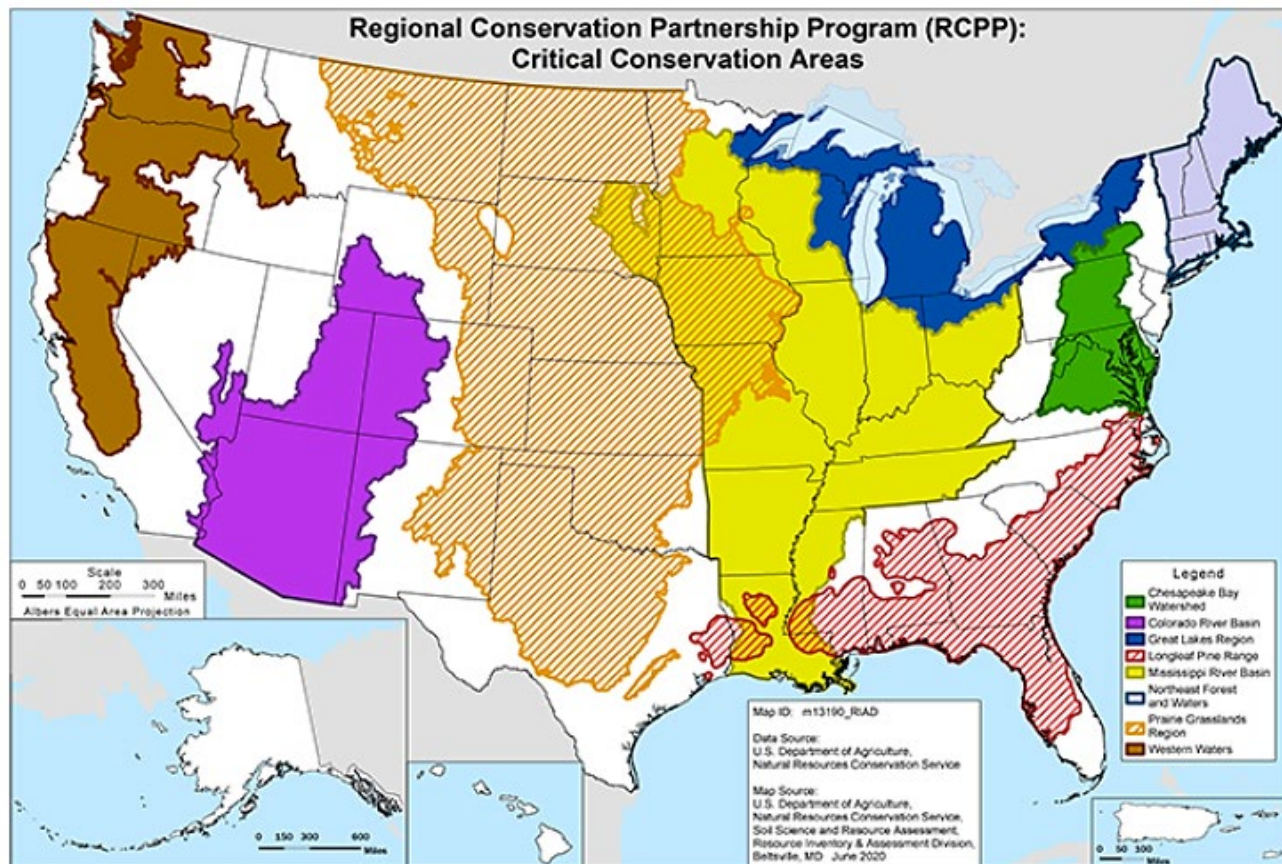
RCPP Funding Pools

State/Multi-State

Can include any RCPP resource concern or conservation benefit.

Critical Conservation Areas

- Project and producer contracts or easements under this project must address at least one CCA-specific priority resource concern.
- Single proposal cannot include multiple CCAs.
- See the [RCPP website](https://www.nrcs.usda.gov/rcpp) for more information.



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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
- Urban Agriculture
- Historically Underserved Farmers and Ranchers

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Tips for 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).

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FY 2023 NFO Highlights of Changes

Federal Share for Entity-Held Easements

- For non-HU landowners, the maximum Federal Share for Entity-held Easements remains at:
 - **Up to 50%** for easements **with** a US Right of Enforcement.
 - **Up to 25%** for easements **without** a US Right of Enforcement.
- For HU landowners, may be:
 - **Up to 75%** for easements **with** a US Right of Enforcement.
 - **Up to 50%** for easements **without** a US Right of Enforcement.

Note

Entity-held Easements acquired through an RCPP AFA may NOT include a US ROE.

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FY 2023 NFO Highlights of Changes

Partners may request to use covered program easement deeds modified for RCPP.



Entity-Held Easements

May use NRCS-approved ACEP-ALE template.



US-Held Easements

May use WRE, HFRP, or other standard NRCS easement deed.

NRCS will make appropriate adjustments to include RCPP authorities.

Request must be included in the proposal.

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Example Proposal Response



Describe rationale for inclusion of each RCPP activity type (e.g., rental contracts, entity-held easements) in project proposal, and how each activity relates to the generation of 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

Does the partner plan to target project funding to particular locations or producers based on a scientific assessment or research-based plan? If so, please describe the approach.

... 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.
- ✓ 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) will administer the acquisition of easements selected by the States.
- ✓ Submit your proposed RCPP Easement Deed and any alternative valuation process as part of the proposal.





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Questions?

For more information visit [NRCs-USDA.Gov](https://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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