DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation (CCC)

Natural Resources Conservation Service (NRCS)

Farm and Ranch Lands Protection Program (FRPP)

Farm and Ranch Lands Protection Program (FRPP)

Fiscal Year 2007 Announcement of Program Funding

Catalog of Federal Domestic Assistance (CFDA) Number: 10.913

EXECUTIVE SUMMARY: Congress delegated authority to administer FRPP to the Chief of the Natural Resources Conservation Service (NRCS). NRCS, on behalf of the Commodity Credit Corporation (CCC) and using its authorities, requests proposals from Federally recognized Indian tribes, States, units of local government, and nongovernmental organizations to cooperate in the acquisition of conservation easements on farms and ranches. Eligible land includes farm and ranch land that has prime, unique, or other productive soil, or that contains historical or archaeological resources. These lands must also be subject to a pending offer from eligible entities for the purpose of protecting topsoil by limiting conversion of that land to nonagricultural uses. Over $48 million in FRPP funds is available to purchase conservation easements in fiscal year 2007.

PROPOSAL DUE DATES AND ADDRESSES: Proposals are to be submitted in hard copy format, either by hand delivery, express mail, or overnight courier service. Proposals will be submitted to the NRCS State Conservationist for the State where the project land resides. Proposals must be received at the appropriate NRCS State Office, as shown in the Appendix to this announcement, by close of business on April 27, 2007. A proposal's postmark date is not a factor in whether an application is received on time. The applicant assumes the risk of any delays in proposal delivery.

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I. FUNDING OPPORTUNITY DESCRIPTION

A. Legislative Authority

Title III, Section 388 of the Federal Agriculture Improvement and Reform Act of 1996 (1996 Farm Bill) authorized the FRPP, 16 U.S.C. 3830 note). The Farm Security and Rural Investment Act of 2002 amended the Food Security Act of 1985, 16 U.S.C. 3838h and 3838i and reauthorized FRPP (Public Law 107–171).

B. Background

Congress delegated authority to administer FRPP to the Chief of the Natural Resources Conservation Service (NRCS). NRCS, on behalf of the Commodity Credit Corporation (CCC) and using its authorities, requests proposals from Federally recognized Indian tribes, States, units of local government, and nongovernmental organizations to cooperate in the acquisition of conservation easements on farms and ranches. Eligible land includes farm and ranch land that has prime, unique, or other productive soil, or that contains historical or archaeological resources. These lands must also be subject to a pending offer from eligible entities for the purpose of protecting topsoil by limiting conversion of that land to nonagricultural uses. An estimated $48 million in FRPP funds is available to purchase conservation easements in fiscal year 2007.

C. Overview

Urban sprawl continues to threaten the Nation's farm and ranch land, as social and economic changes over the past three decades have influenced the rate at which land is converted to non-agricultural uses. Population growth, demographic changes, preferences for larger lots, expansion of transportation systems, and economic prosperity have contributed to increases in agricultural land conversion rates. The amount of farm and ranch land lost to development and

the quality of farmland being converted are significant concerns. In most States, prime farmland is being converted at two to four times the rate of other, less-productive agricultural land. There continues to be an important national interest in the protection of farm and ranch land. Land use devoted to agriculture provides an important contribution to environmental quality, protection of the Nation's historical and archaeological resources, and scenic beauty.

II. FUNDING INFORMATION

A. Funds Availability

Effective on the publication date of this notice, NRCS announces the availability of over $48 million for FRPP, until September 30, 2007. The NRCS State Conservationist must receive proposals for participation within 45 days of the date of this notice. State, Tribal, and local governmental entities and qualified nongovernmental organizations may apply. Selection will be made and based on the criteria established in this notice and additional criteria developed by the applicable State Conservationist. Pending offers by an eligible entity must be for acquiring an easement for perpetuity, and not applicable where State law prohibits a permanent easement.

B. Funding Restrictions

Under the FRPP, NRCS may provide up to 50 percent of the appraised fair market value of the conservation easement; the cooperating entity provides the other 50 percent. Landowner donations up to 25 percent of the appraised fair market value of the conservation easement may be considered part of the entity's matching offer. For the entity, two cost-share options are available when providing its matching offer. One option is for the entity to provide, in cash, at least 25 percent of the appraised fair market value of the conservation easement. The second option is for the entity to provide, in cash, at least 50 percent of the purchase price of the

conservation easement. The second option may be preferable to an entity in the case of a large bargain sale by the landowner. If the second option is selected, the NRCS share cannot exceed the entity's contribution.

The following two examples illustrate how these two cost-share options may function. Under Option 1, where the appraised fair market value option is selected by the entity, the total appraised fair market value of the conservation easement is $1 million. If the landowner chooses to donate 25 percent of the appraised fair market value, the actual easement purchase price is $750,000. In this case, the cooperating entity contributes 25 percent of the appraised fair market value or $250,000, and NRCS contributes $500,000. Under Option 2, the purchase price option is selected by the entity when a landowner makes a large charitable donation in excess of 25 percent of the appraised fair market value. For example, if the total appraised fair market value of the conservation easement is $1 million, and the landowner chooses to donate 60 percent of the appraised fair market value, the actual easement purchase price is $400,000. In this case, NRCS and the cooperating entity each contribute 50 percent of the purchase price or $200,000.

III CRITERIA FOR PROPOSAL EVALUATION

Each proposal will be ranked by NRCS using the National and State criteria. The highest ranked proposal will be funded. NRCS will place a higher priority on easements acquired by entities that have extensive experience in managing and enforcing easements.

A. State Level Criteria

NRCS State ranking criteria may be used to evaluate and rank specific parcels, include, but are not limited to, proximity to protected clusters, viability of the agricultural operations, parcel size, type of land use, maximum cost expended per acre, and an entity's commitment to assuring farm and ranch succession and transfer to viable farming operations. State ranking criteria are developed on a State-by-State basis and will be available to interested participating entities before proposal submission so entities may take into account the ranking factors when developing their proposals. Interested entities should contact their State Conservationist for a complete listing of applicable National and State ranking criteria, and program implementation guidelines.

B. National Level Criteria

Below is a list of national criteria that will be used by the NRCS State Conservationist to evaluate proposals:

- Acreage of prime and important farm and ranch land estimated to be protected;
- Acreage of prime and important farm and ranch land converted to nonagricultural uses;
- Number or acreage of historic and archaeological sites estimated to be protected on farm or ranch lands;
- Total acres needing protection;
- FRPP cost per acre;
- Rate of land conversion;
- Percentage of funding guaranteed to be provided by cooperating entities;
- History of cooperating entities' commitments to conservation planning and implementing conservation practices;

- Participating entities' histories of acquiring, managing, holding, and enforcing easements (including average annual farmland protection easement expenditures over the past five years, accomplishments, and staff);
- Amount of FRPP funding requested; and
- Participating entities' estimated unfunded backlog of conservation easements on acres eligible for FRPP assistance.

C. Entity Eligibility Criteria

To be eligible for FRPP funds, an entity must meet the definition of eligible entity as set forth herein and must carry-out a farmland protection program that purchases conservation easements for the purpose of protecting prime, unique, or other productive soil or historical and archaeological resources by limiting conversion of farm or ranch land to nonagricultural uses. As a condition of receiving FRPP funds, the cooperating entity shall not use FRPP funds to place an easement on a property in which cooperating entity's employee, board member, or immediate family member of an employee or board member has a property interest.

D. Land Eligibility Criteria

Only land that is eligible as defined in this announcement of program funding is eligible under FRPP. In addition NRCS will only consider enrolling eligible land in the program that is of sufficient size and has boundaries that allow for efficient management of the area. The land must have access to markets for its products and an infrastructure appropriate for agricultural production. NRCS will not enroll land in FRPP that is publicly-owned land or land that is

already subject to an easement or deed restriction that limits non-agricultural conversion of farm and ranch land.

NRCS will not enroll otherwise eligible lands if NRCS determines that the protection provided by the FRPP would not be effective because of onsite or offsite conditions. For example, as it relates to on-site conditions, a proposal nominating a parcel that contains hazardous material on the land under easement, will likely cause NRCS to determine that the use of FRPP funds is not appropriate. As it relates to offsite conditions, NRCS disfavors acquiring land that is surrounded by a developed area, is slated to be zoned for development or recreational use by a local government, or has infrastructure that will facilitate development such as public water and sewer systems. Land that contains over two percent impervious surface coverage, or whose owners want to develop the farm or ranch so it has more than two percent impervious surface, is not eligible unless it qualifies for a waiver of the two percent impervious surface limitation. An evaluation process may qualify certain farms or ranches for impervious surface up to six percent.

IV. APPLICATION AND SUBMISSION INFORMATION

A. Submitting Proposals

The CCC, acting through NRCS, will accept proposals submitted to the NRCS State Offices in which the proposed projects are located from eligible entities that have pending offers for acquiring conservation easements for the purposes of protecting topsoil by limiting nonagricultural use of the land and/or protecting historical and archaeological sites on farm and ranch lands.

All proposals must be submitted to the appropriate NRCS State Conservationist within 45 days from the date of this notice. The NRCS State Conservationist may consult with the State Technical Committee to evaluate the merits of the proposals.

The NRCS State Conservationist will review and evaluate the proposals based on the entity's eligibility, land eligibility, and the extent to which the proposal supports to FRPP objectives. Proposals must include adequate proof of a pending offer for the subject land. Adequate proof includes a written bid, contract, commitment, or option extended to a landowner. Pending offers based upon appraisals completed and signed by State-certified general appraisers will receive higher priority for FRPP funding. Proposals submitted directly to the NRCS National Office or a Field Office will not be accepted and will be returned to the submitting entity.

B. Definitions

For the purposes of this notice, the following definitions, reprinted from 7CFR part 1491, apply:

Chief means the Chief of NRCS, USDA.

Commodity Credit Corporation (CCC) is a Government-owned and operated entity that was created to stabilize, support, and protect farm income and prices. CCC is managed by a Board of Directors, subject to the general supervision and direction of the Secretary of Agriculture, who is an ex-officio director and chairperson of the Board. CCC provides the funding for FRPP, and NRCS administers FRPP on its behalf.

Conservation Easement means a voluntary, legally recorded restriction, in the form of a deed, on the use of property, in order to protect resources such as agricultural lands, historic structures, open space, and wildlife habitat.

Conservation Plan is the document that—

(1) Applies to highly erodible cropland;

(2) Describes the conservation system applicable to the highly erodible cropland, and describes the decisions of the person with respect to location, land use, tillage systems, and conservation treatment measures and schedules;

(3) Is approved by the local soil conservation district in consultation with the local committees established under Section 8 (b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 5909h(b)(5)) and the Secretary, or by the Secretary.

Eligible entities means Federally recognized Indian Tribes, States, units of local government, and certain non-governmental organizations, which have a farmland protection program that purchases agricultural conservation easements for the purpose of protecting topsoil by limiting conversion to non-agricultural uses of the land. Additionally, to be eligible for FRPP, the entity must have pending offers for acquiring conservation easements for the purpose of protecting agricultural land from conversion to non-agricultural uses.

Eligible land is privately owned land on a farm or ranch that contains at least 50 percent prime,

unique, Statewide, or locally important soil, or contains historical or archaeological resources, and is subject to a pending offer by an eligible entity. Eligible land includes cropland, rangeland, grassland, pasture land, and forest land provided the forested acreage does not exceed two-thirds of the easement acreage. Moreover, NRCS will only pay for forested acreage up to half of the easement acreage. Other incidental land that would not otherwise be eligible, but when considered as part of a pending offer, may be considered eligible, if inclusion of such land would significantly augment protection of the associated farm or ranch land.

Fair market value is ascertained through standard real property appraisal methods. Fair market value is the amount in cash, or in terms reasonably equivalent to cash, for which in all probability the property would have sold on the effective date of the appraisal, after a reasonable exposure of time on the open competitive market, from a willing and reasonably knowledgeable seller to a willing and reasonably knowledgeable buyer with neither acting under any compulsion to buy or sell, giving due consideration to all available economic uses of the property at the time of the appraisal. Easement price will be determined by completing an appraisal for market value of the whole property (larger parcel) before the easement (before value) and an appraisal for market value of the whole property (larger parcel) after the easement (after value) is placed. The difference between the before value and the after value is deemed the value of the conservation easement.

Field Office Technical Guide (FOTG) is the official document for NRCS guidelines, criteria, and standards for planning and applying conservation treatments and conservation management systems. The FOTG contains detailed information on the conservation of soil, water, air, plant, and animal resources applicable to the local area for which it is prepared.

Forest land means a land cover/use category that is at least 10 percent stocked by single-stemmed woody species of any size that will be at least 4 meters (13 feet) tall at maturity. Also included is land bearing evidence of natural regeneration of tree cover (cut over forest or abandoned farmland) that is not currently developed for nonforest use. Ten percent stocked, when viewed from a vertical direction, equates to an aerial canopy cover of leaves and branches of 25 percent or greater. The minimum area for classification as forest land is 1 acre, and the area must be at least 100 feet wide. Exceptions may be made by the Chief for land primarily managed through a low-input system for food, fiber, or other agricultural products.

Historical and archaeological resources must be:

(1) Listed in the National Register of Historic Places (established under the National Historic Preservation Act (NHPA), 16 U.S.C. Section 470, et seq.), or

(2) Formally determined eligible for listing in the National Register of Historic Places (by the State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) and the Keeper of the National Register in accordance with Section 106 of the NHPA), or

(3) Formally listed in the State or Tribal Register of Historic Places of the SHPO (designated under Section 101 (b)(1)(B) of the NHPA) or the THPO (designated under Section 101(d)(1)(C) of the NHPA).

Land Evaluation and Site Assessment System (LESA) is the land evaluation system approved by the NRCS State Conservationist used to rank land for farm and ranch land protection purposes, based on soil potential for agriculture, as well as social and economic factors, such as location, access to markets, and adjacent land use. (For additional information see the Farmland Protection Policy Act regulation at 7 CFR part 658.).

Landowner means a person, persons, estate, corporation, or other business or nonprofit entity having fee title ownership of farm or ranch land.

Natural Resources Conservation Service is an agency of the U.S. Department of Agriculture.

Non-governmental organization is defined as any organization that:

(1) Is organized for, and at all times since the formation of the organization, has been operated principally for one or more of the conservation purposes specified in clause (i), (ii), (iii), or (iv) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;

(2) Is an organization described in section 501(c)(3) of that Code that is exempt from taxation under 501(a) of that Code;

(3) Is described in section 509(a)(2) of that Code; or is described in section 509(a)(3) of that Code; and is controlled by an organization described in section 509(a)(2) of that Code.

Other productive soils are soils that are contained on farm or ranch land that is identified as farmland of Statewide or local importance and is used for the production of food, feed, fiber, forage, or oilseed crops. The appropriate State or local government agency determines Statewide or locally important farmland with concurrence from the State Conservationist. Generally, these farmlands produce high yields of crops when treated and managed according to acceptable farming methods. In some States and localities, farmlands of Statewide and local importance may include tracts of land that have been designated for agriculture by State law or local ordinance. 7 CFR part 657, sets forth the process for designating soils as Statewide or locally important.

Pending offer is a written bid, contract, or option extended to a landowner by an eligible entity to acquire a conservation easement before the legal title to these rights has been conveyed for the purpose of limiting non-agricultural uses of the land.

Prime and unique farmland is defined separately, as follows:

(1) Prime farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, fiber, forage, oilseed, and other agricultural crops with minimum inputs of fuel, fertilizer, pesticides, and labor, without intolerable soil erosion, as determined by the Secretary.

(2) Unique farmland is land other than prime farmland that is used for the production of specific high-value food and fiber crops, as determined by the Secretary. It has the special combination of soil quality, location, growing season, and moisture supply needed to economically produce sustained high quality or high yields of specific crops when treated and managed according to acceptable farming methods. Examples of such crops include citrus, tree nuts, olives, cranberries, fruits, and vegetables. Additional information on the definition of prime, unique, or other productive soil can be found in 7 CFR part 657 and 7 CFR part 658.

State Technical Committee means a committee established by the Secretary of the U.S. Department of Agriculture in a State pursuant to 16 U.S.C. section 3861 and 7 CFR part 610, Subpart C.

State Conservationist means the NRCS employee authorized to direct and supervise NRCS activities in a State, the Caribbean Area (Puerto Rico and the Virgin Islands), or the Pacific Basin Area (Guam, American Samoa, and the Commonwealth of the Northern Marianna Islands).

United States' rights means rights in real property including the right to enforce the terms of the conservation easement deed and take sole title to the conservation easement deed.

C. Proposal Requirements

Proposals must contain the information set forth below in order to receive consideration for FRPP funds. There is no national form per se; applications should be narrative statements with the headings outlined below. Individual states may have forms that are used for a particular state. Contact the state conservationists listed in Part VII for further information on state specific requirements.

1. Organization and programs: Eligible entities must describe their farmland protection program, and their record of acquiring and holding permanent agricultural land protection easements or other interests.

Information provided in the proposal should:

(a) Demonstrate a commitment to long-term conservation of agricultural lands through the use of voluntary easements that protect farmland from conversion to nonagricultural uses;
(b) Demonstrate the capability to acquire, manage, and enforce easements on property with agricultural or historic easements places on it; (c) Demonstrate the number and ability of staff that will be dedicated to monitoring easement stewardship for agriculture and/or historic preservation; (d) Demonstrate the availability of funds for the easement(s) proposed to be acquired. Funds must be available at the time of application. The purchase price may not exceed the appraised fair market value of the conservation easement. If a landowner donation is included in the entity's match, the entity must demonstrate the availability of 25 percent of the appraised fair market value or 50 percent of the purchase price; and

(e) Include pending offer(s). A pending offer is a written bid, contract, commitment, or option extended to a landowner by an eligible entity to acquire a conservation easement that limits nonagricultural uses of the land before the legal title to these rights has been conveyed. The primary purpose of the pending offers must be for the purchase of development rights in order to protect topsoil by limiting conversion to nonagricultural uses. Pending offers having appraisals completed and signed by State-certified general real property appraisers will receive higher funding priority by the NRCS State Conservationist. Appraisals completed and signed by a State-certified general appraiser must contain a disclosure statement by the appraiser. The disclosure statement should include at a minimum the following: The appraiser accepts full responsibility for the appraisal, the enclosed statements are true and unbiased, the value of the land is limited by stated assumptions only, the appraiser has no interest in the land, and the appraisal conforms to the Uniform Standards of Professional Appraisal Practice and the Uniform Appraisal Standards for Federal Land Acquisitions.

2. Lands to be acquired: The proposal must describe the lands to be acquired with funding from FRPP. Specifically, the proposal must include the following:

(a) A map of each parcel showing the proposed protected area(s);

(b) The amount and source of funds currently available for each easement to be acquired;

(c) The criteria used to set the acquisition priorities; and

(d) A detailed description of each land parcel, including:

(i) The priority of the offers;

(ii) The names of the landowners of each parcel;

(iii) The address and location maps of each parcel;

(iv) The size of each parcel, in acres;

(v) The acres of the prime, unique, or Statewide and locally important soil in each parcel and a map of the prime, unique, or Statewide or locally important soils for each parcel;

(vi) The acres of cropland, pastureland, hayland, rangeland, and forest in each parcel and a map of the cropland, pastureland, hayland, rangeland, and forest for each parcel;

(vii) The number or acreage of historical or archaeological sites, if any, proposed to be protected, a brief description of the sites' significance and documentation of the site's listing on the Federal, Tribal, or State register. The listing document that describes the significance of the site must be included in the application to compare with the cooperating entity's ability to manage and enforce the easement for historic preservation of the site;

(viii) The acreage of forested wetlands (areas of hydric soil covered by trees)

(ix) The acreage of non-forested wetlands (areas of hydric soils covered by herbaceous or scrub-shrub wetlands)

(x) The acreage of non-wetland forest (areas of non-hydric soil covered by forest)

(xi) A map showing the location of other protected parcels in relation to the land parcels proposed to be protected;

(xii) Estimated cost of the easement(s): The consideration to be paid to any landowners for the conveyance of any lands or interests in lands cannot be more than the fair market value of the land or interests conveyed, as determined by an appraiser licensed in the State, in which the parcel is located.

(xiii) An example of the cooperating entity's proposed easement deed used to prevent agricultural land conversion;

(xiv) Indication of the accessibility to markets for each parcel;

(xv) Indication of an existing agricultural infrastructure, on- and off-farm, and other support system(s);

(xvi) Statement regarding the level of threat from urban development for each parcel;

(xvii) A description of the eligible entity's farmland protection strategy and how the FRPP proposal submitted by the entity corresponds to the entity's strategic plan and;

(xviii) Percent of impervious surface. Impervious surface on FRPP easements is limited to 2% of the easement area (not including NRCS-approved conservation practices) unless a waiver is granted by the State Conservationist;

(xix) Ownership of subsurface mineral rights for each parcel. Mining is prohibited on FRPP easements. Subsurface mineral rights owned by third parties must be subordinated or a mineral remoteness test conducted to assess the chance of the minerals being extracted by the third party. Parcels that have a god chance of being mined will not be accepted into FRPP. Exploration and extraction of oil and gas is negotiable and deeds must be written to minimize the disturbance caused by the exploration and extraction.

(xx) Desire of landowners to subdivide each parcel. Subdivision in FRPP is generally prohibited. Parcels for which landowners know the exact locations and dimensions of the subdivided parcels should submit the parcels as separate parcels to be ranked at their subdivided size. If a landowner wants the option to subdivide at a date after the application is submitted, permission must be written into the conservation easement deed. The size of the subdivided parcels must be an economically viable size for a farm or ranch in the county in which the parcel is located.

(xxi) Desire of the landowner to construct additional residences on the easement parcel. Construction of new residences is generally prohibited on FRPP easements. If a landowner

wants the option to construct additional residences for children returning to the farm or ranch or full time farm or ranch employees after the application is submitted, permission must be written into the conservation easement deed. The size and location of the residences must also be specified in the conservation easement deed.

(xxii) Other factors from an evaluation and assessment system used to set priorities. If the eligible entity used the LESA system or a similar land evaluation system as its tool, include the scores for the land parcels slated for acquisition.

3. List other partners involved in acquisition of the easement and their estimated financial contribution; and any other pertinent information about the partner.

4. Include other information required by the NRCS State Conservationist.

D. Submission Requirements

Applications must be submitted as hard copy and electronic copy to the appropriate State Conservationist and must include narrative sections described in this Notice. Incomplete applications will not be considered. If submitting proposals for more than one project, submit a separate, complete application package for each project. Applications are to be typewritten on 8½" x 11" white paper, double spaced, and on one side only. The text of the proposal must be typewritten in a font no smaller than 12-point, with one-inch margins. Applicants must submit one signed original and six complete copies of each project application. Each copy of the proposal must be stapled securely in the upper left hand corner. Hard copies must be accompanied by an electronic copy on a 3½-inch diskette or compact disc. Electronic files must be either Microsoft Word or Acrobat (PDF) files.

E. Proposal Due Date

Proposals must be received at the previously aforementioned address by 5:00 p.m. EDT on April 27, 2007. A proposal's postmark date is not a factor in whether an application is received on time. The applicant assumes the risk of any delays in proposal delivery. Applicants whose proposals are selected will be notified by mail within 10 business days of the final selection. Applicants whose proposals have not been selected will be notified within 15 business days of the final selection. Notification of elimination will be e-mailed or mailed to the applicant.

F. Acknowledgement of Submission

Receipt of all applications will be acknowledged by e-mail. Therefore, applicants are strongly encouraged to provide accurate e-mail addresses. If the applicant's e-mail address is not indicated, NRCS will acknowledge receipt of the application by letter. If the applicant does not receive an acknowledgment within 7 days of the submission deadline, please contact the appropriate NRCS State office.

V. AWARD INFORMATION AND ADMINISTRATION

A. Proposal Review and Selection Process

Prior to proposal review, the NRCS State Office will screen each application for its completeness. Incomplete applications, including those that do not meet eligibility requirements, will be eliminated from competition. Applications meeting the requirements of this Notice will be ranked by the State Conservationist utilizing the Criteria for Proposal Evaluation identified above.

B. Anticipated Announcement and Award Dates

Awards are anticipated to be announced on June 15, 2007.

C. Award Notification

Applicants who have been selected will be notified by official notice from the NRCS State Conservationist. NRCS staff will develop cooperative agreements with those cooperating entities whose parcels have been selected. Applicants whose proposals have not been selected will be notified by official letter.

VI. OTHER PROGARM REQUIREMENTS

A. Administrative and Technical Reviews

NRCS will perform an administrative review of the appraisals on ninety percent of the parcels that are accepted for purchase of an easement. NRCS will also perform a technical review of the first appraisal performed by all appraisers for FRPP this fiscal year and a random selection of other appraisals that constitute 10 percent of the parcels accepted for purchase of an easement in FRPP in each state. The NRCS National Appraiser will also perform a technical review of all appraisals with a fair market value of more than $1 million and appraisals referred to him by state administrative and technical reviews.

B. Review of Conveyance Document and Title

The conveyance document (i.e., conservation easement deed or conservation easement deed template) used by the eligible entity must be reviewed and approved by the USDA Office of General Counsel (OGC) before being recorded. The OGC evaluates the conveyance document and title according the U.S. Department of Justice standards. Those standards require that the financial consideration paid for of the easement must be included in the easement.

Since title to the easement is co-held with an entity other than the United States, the conveyance document must contain a clause that all rights conveyed by the landowner under the document will become vested in the United States should the cooperating entity abandon, fail to enforce, or attempt to terminate the conservation easement. The conveyance document must also specify the impervious surfaces shall not exceed two percent of the easement area unless a waiver has been obtained from the State Conservationist.

The U.S. Department of Justice title standards require the OGC to review the title for legal sufficiency. The title must be approved before an easement can be closed.

C. Conservation Compliance

As a condition of participation, all highly erodible land in the easement must be managed in accordance with a conservation plan. The conservation plan will be developed using the standards and specifications of the NRCS Field Office Technical Guide and 7 CFR part 12, unless otherwise determined by the State Conservationist, in partnership with the eligible entity. The conservation plan must be implemented on the highly erodible land, as determined by the State Conservationist, prior to the easement being recorded.

D. Cooperative Agreement

The CCC, through NRCS, enters into a cooperative agreement with a selected eligible entity to document participation in FRPP. The cooperative agreement will address, among other subjects:

(1) The easement type, terms, and conditions;

(2) The management and enforcement of the rights acquired;

(3) The role and responsibilities of NRCS and the cooperating entity;

(4) The responsibilities of the easement manager on lands acquired with FRPP assistance; and

(5) Other requirements deemed necessary by the CCC, acting through NRCS, to protect the

interests of the United States. The cooperative agreement will also include an attachment listing the pending offers accepted in FRPP, landowners' names, addresses, location map(s), and other relevant information. Interested entities should contact their State Conservationist for a copy of a sample cooperative agreement.

ARLEN L. LANCASTER
Vice President, Commodity Credit Corporation and
Chief, Natural Resources Conservation Service

VII. AGENCY CONTACTS

Administrative

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Appendix

Natural Resources Conservation Service State Conservationists

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