Farm and Ranch Lands Protection Program

October 23, 2008

Q. What is the Farm and Ranch Lands Protection Program (FRPP)?

A. FRPP is a voluntary Federal program that helps farmers and ranchers keep their land in agriculture. The program provides matching funds to State, Tribal, and local governments and non-governmental organizations with existing farm and ranch land protection programs to purchase conservation easements. The Natural Resources Conservation Service (NRCS) is designated as the lead agency in implementing this program.

Q. What are the major changes to FRPP in the 2008 Farm Bill?

A. The Food, Conservation and Energy Act of 2008 (Farm Bill) changed the purpose of the program from protecting topsoil to protecting agricultural use and related conservation values from nonagricultural use. It changes the Secretary's role from purchasing easements to providing funds for cooperating entities to purchase easements. The Act also makes farm and ranch land containing land that supports the policies of a state or local farm or ranch protection program eligible. It allows cooperating entities to select an industry-approved appraisal standard to estimate the value of an easement. The Farm Bill reduces the minimum cash contribution of cooperating entities to 25 percent of the purchase price of the conservation easement. It also established a 'certified' eligible entity category to recognize the cooperating entities with outstanding records of administering the easement acquisition and management process.

Q. What is a conservation easement?

A. A conservation easement is an interest in land, as defined and delineated in a deed, whereby the landowner conveys specific rights, title, and interests in a property to a State, Tribal, or local government or nongovernmental organization. The landowner retains those rights, title, and interests in the property which are specifically reserved to the landowner in the easement deed, such as the right to farm.

Q. What is a purchase of agricultural conservation easement (PACE) program?

A. A PACE program, sometimes referred to as a purchase of development rights program, is a voluntary farmland protection program that compensates landowners for voluntarily limiting future development of their land for nonagricultural uses. PACE programs, which are generally operated by Federal, State, and local governments or nongovernmental organizations, enable landowners to sell development rights on their land to a government agency or nongovernmental organization, such as a land trust, while retaining full ownership.

Q. How does a landowner participate in FRPP?

A. A landowner submits an application to a cooperating entity—a State, Tribal, or local government or a non-governmental organization—that has an existing farm or ranch land protection program. The cooperating entity submits the application to NRCS with its assurance that it has funds to match the Federal contribution to the acquisition. The NRCS State Conservationist, based o established ranking criteria developed in cooperation with the State Technical Committee, awards funds to eligible entities to acquire easements on the highest ranked farms and ranches. These entities acquire perpetual conservation easements from landowners. In exchange for payment, participating landowners agree not to convert their land to non-agricultural uses and to develop and implement a conservation plan for any highly erodible land.

Q. How is the value of a conservation easement determined?

A. The value of a conservation easement usually is determined through a professional appraisal. A State certified general appraiser assesses the difference between the fair market value of the property without an easement, often using comparable sales, and its restricted value under the easement.

Q. What restrictions are found in a typical easement?

A. The easements generally restrict non-farm development and subdivisions. Some farm-related housing may be allowed. Generally, there are few restrictions on improvements and construction related to the farming operation. The easements become part of the land deed and are recorded in the local land records.

Q. Are all agricultural conservation easements the same?

A. The basic purpose and structure of all agricultural conservation easements are the same. However, each easement is tailored to the specific farm being protected. Exact language in the easement may reflect future expansion plans of the landowners, including the needs of their heirs.

Q. How do the easements affect other rights of ownership?

A. The landowner controls the land and use of the land according to the agricultural conservation easement. The land still is owned by the landowner and can be transferred, deeded, or sold, just as any other property. The easement does not require any provisions for public access, unless such access was negotiated as part of the easement purchase transaction.

Q. Does a conservation easement affect a farmer's ability to borrow money?

A. A farm loan usually is based on the ability of the farm operation to repay the loan. Therefore, a conservation easement, which only affects non-farm development activities, not the farm operation, should not have a bearing on the farmer's ability to borrow operating funds. If a lending institution holds a lien on a property, it must review the sale of the conservation easement just as it would need to approve any transaction on the property.

Q. What are the local property tax implications of protecting farmland with conservation easements?

A. Because the landowner still owns the property, he or she still is responsible for paying any associated property taxes. Since many states have programs that tax farmland based on its use or farm value, the net effect of the easement on local property tax revenues is little to none.

Q. How are the proceeds from the sale of a conservation easement treated for tax purposes?

A. The easement sale proceeds are treated as any other capital gain for Federal, State, and local income tax purposes. Some State or local programs have provisions that allow for installment purchases or have used securable tax-exempt bonds as a method of payment.

Q. What is the role of the Federal, State, Tribal, and local governments and Nongovernmental organizations?

A. Cooperating governmental or Non-governmental organizations administer the easement acquisition and hold, manage, and enforce easements. A Federal contingent right interest in the property must be incorporated in each easement deed to protect the Federal investment if the cooperating entity terminates, defaults, or divests itself from the easement.

Q. How much is a State, Tribal, or local government or non-governmental organization required to contribute?

A. The NRCS share of the conservation easement cannot exceed 50 percent of the appraised fair market value of the conservation easement. The cooperating entity must contribute at least 50 percent of the appraised fair market value of the conservation easement. As part of its share of the cost of purchasing a conservation easement, a cooperating entity may include a charitable donation by the landowner. The cooperating entity must provide a minimum of 25 percent of the purchase price of the conservation easement (appraised fair market value minus the landowner donation) in cash.

Q. Does the Adjusted Gross Income provision of the 2008 Farm Bill impact my participation in FRPP?

A. Yes, if you are an individual or business entity that has an average adjusted gross nonfarm income exceeding $1.0 million for the three tax years immediately preceding the application year, you are not eligible to receive program benefits or payments. However, an exemption is provided in cases where two-thirds of the adjusted gross income is derived from farming, ranching, or forestry operations.

Q. How does the change in the FRPP purpose affect the administration of FRPP?

A. The change in the purpose increases the number of farms and ranches that are eligible for FRPP. The ranking criteria will determine the farms and ranches that are the highest quality parcels to enroll in the program.

Q. How does the change in the Secretary's role in FRPP affect the administration of FRPP?

A. The change in the Secretary's role means tat the United States will not be a grantee on the deed and the United States will not purchase title insurance to protect itself as a grantee.

Q. How are certified entities determined?

A. Certified entities must have enrolled a minimum of 50 easements in the FRPP and have a closing efficiency of at least 50 percent (the percent of parcels enrolled by the cooperating entity on which the easement is closed within 18 months of the signing of the cooperative agreement that obligates funding to it) in the five previous years in which easements should be closed (2002-2006 for fiscal year 2009). The FRPP database will be reviewed each year to determine which cooperating entities qualify as certified entities.

Q. What are the benefits of being a certified entity?

A. Certified entities will be eligible to enter into cooperative agreements through which NRCS can obligate to them for five years or more without renegotiating the terms of the agreement.

Q. What appraisal standards may cooperating entities use to assess the value of an easement?

A. Cooperating entities may use either the Uniform Standards for Professional Appraisal Practice (USPAP) or the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA).

For More Information

If you need more information about FRPP, contact KipKolesinskas, FRPP Manager, (860) 871-4047 or kip.kolesinskas@ct.usda.gov. Or visit us on the web at www.ct.nrcs.usda.gov/programs/fpp/frpp.html

Note: This is not intended to be a definitive interpretation of farm legislation. Rather, it is preliminary and may change as USDA develops implementing policies and procedures. Please check back for updates.