

STATE CONSERVATIONIST QUESTIONNAIRE – EASEMENT ADDENDUM
KEY TIPS

In addition to discussion of State Conservation Questionnaire items, if proposal includes any easement activities, State Conservationists, State RCPP Coordinators, and State Easement Specialists are encouraged to meet with RCPP applicants to identify easement priorities to include in proposal submission. NRCS staff should use this tips document alongside the Easement Addendum to the State Conservation Questionnaire.

<p>1. What conservation benefits are you hoping to achieve by enrolling easements? Which NRCS resource concerns will be addressed by these conservation benefits?</p>	<ul style="list-style-type: none"> • Each partner proposed “conservation benefit” must be correlated with an NRCS resource concern. • Keep in mind that the conservation benefits and resource concerns they address must be directly reflected in the easement purpose, aka Conservation Values Statement.
<p>2. Considering whether the project is an Alternative Funding Arrangement (AFA) or Classic, do you intend to include US-held easements, Entity-held entity, or both?</p>	<ul style="list-style-type: none"> • If AFA, US-held easements is not an option • If AFA, no US Right of Enforcement is allowed on entity-held easements • NRCS will only contribute 25% of the value of the easement when there is no US Right of Enforcement. • If proposal includes multiple types of easements, be aware of contribution requirements, differences in the deed requirements, etc.
<p>3. For Critical Conservation Area (CCA) funded projects only</p>	<ul style="list-style-type: none"> • In Critical Conservation Area (CCA) projects each easement/contract executed in that project must address a CCA priority resource concern. That Priority Resource Concern must be clearly stated in the Conservation Values Statement (aka easement purpose) in the deed. • Ensure alignment across the Priority Resource Concern, Conservation Values (easement purpose) and proposed conservation benefits.
<p>4. Experience/familiarity with acquiring easements</p>	<ul style="list-style-type: none"> • If partner indicates no experience with easements, and they do not have another partner identified on the proposal that does have easement experience and will be serving as lead the project warrants much more discussion.
<p>5. Pre-selected parcels</p>	<ul style="list-style-type: none"> • If parcels are specifically identified in the proposal, they still must have eligibility determined before the competitive ranking is skipped. • Are they doing an open application sign up or targeting specific properties for specific resource reasons? • Are there opportunities to reach customers we haven’t worked with in the past? • Project timeline will be longer if partners have not considered parcel selection.
<p>6. Entity-held easement considerations</p>	

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<p>a. Partner involvement</p>	<ul style="list-style-type: none"> • Discuss the staffing and fund capacity of the acquiring partner to manage and enforce an easement once acquired; how many easements has this partner acquired and what do they currently manage? • If project involves Entity-Held easements, lead partner must be qualified to hold easements, or identify a qualified acquiring partner and that partner must be fully engaged in PPA development.
<p>b. US Right of Enforcement (ROE)</p>	<ul style="list-style-type: none"> • US Right of Enforcement (ROE) is not available under AFA. • Remind partner that funding levels are established in NFO and vary based on the inclusion of the US Right of Enforcement, restrictiveness, and HU participants. • RCPP cost-share provided to the eligible entity for their purchase of an easement based on a percentage of the value of the easement: <ul style="list-style-type: none"> ○ Up to 75 percent—with right of enforcement only where easement will directly facilitate purchase of lands by historically underserved landowners ○ Up to 50 percent—with U.S. right of enforcement, or without U.S. right of enforcement for transactions that will directly facilitate purchase of lands by historically underserved landowners ○ Up to 25 percent—without U.S right of enforcement
<p>c. Certified entity</p>	<ul style="list-style-type: none"> • If an ACEP-ALE certified entity intends to request certified entity flexibilities for RCPP easements, those flexibilities may only be approved for easements similar in nature with the same deed terms to those enrolled in ACEP-ALE.
<p>d. Partner Contributions, funding, and staff</p>	<p>Confirm with the partner that the acquiring entity has the capacity to:</p> <ul style="list-style-type: none"> • Provide the non-Federal share requirements • Obtain Phase 1 Environmental Site Assessment • Determine fair market value using approved valuation methods • Obtain a legally-sufficient boundary description of the easement area and associated legal access • Develop RCPP Plan (with or without NRCS assistance as requested) • Obtain clear title and easement closing services • Monitor and enforce easements during and after term of RCPP Project • <i>If funds are not available currently for the activities listed above, what is the anticipated source for these funds and when are they expected to be secured?</i>

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<p>e. Non-Standard vs. standard valuation and deeds</p>	<ul style="list-style-type: none"> • Example of standard process is a before and after appraisal. A non-standard process is alternative valuation. • Standard deed language (use of attached Minimum Deed Terms) and pre-approved deeds are examples of a standard process. Non-standard deeds include the use of customized deeds, Buy-Protect-Sell provisions, or anything that might require a waiver. • If they say they want to use alternative valuation or customized deed, ask if they already have something approved or have already reached out to the EPD national appraiser or EPD national realty specialist. • If partner expects to enroll any parcels through Buy-Protect-Sell procedures, further discussion is warranted with an easement specialist (Only preclosing transfer BPS is allowed under RCPP. Post-closing transfer BPS is not permitted.)
<p>7. US-held easement considerations</p>	
<p>a. Partner involvement in US-held enrollments</p>	<ul style="list-style-type: none"> • Generally, NRCS is responsible for most US-held acquisition activities from application (including selection or confirmation of appropriate deed) to closing. However, partners have the option to be more involved via supplemental agreements to provide limited due diligence products, such as Phase 1 environmental site assessment or title commitments. • Partners cannot be a grantee on any US-held easement deed.
<p>b. Non-Standard easement valuation</p>	<ul style="list-style-type: none"> • Standard valuation is a before and after appraisal. Partners wishing to use an alternative valuation method should submit them to the national appraiser prior to the end of the NFO deadline to ensure the methods can be approved for use. Send to: NRCS.NationalAppraisers@usda.gov
<p>c. Restoration needs</p>	<ul style="list-style-type: none"> • Most, if not all moderately or highly restrictive easements require restoration. • Ensure proposal reflects restoration activities as described by partner. • If a project includes easements which require restoration or land treatment to ensure they address easement plan and/or provide targeted conservation benefits, project budget must include a mix of RCPP and/or partner contributions to address those needs. NRCS will assist with planning. • Discuss that restoration mechanisms occur outside of easement acquisition agreements (i.e., through land management contracts or other contributions). (Note this is different from ACEP-WRE.)