

Agricultural Conservation Easement Program
Colorado Application Guide
Fiscal Year 2017

Proposals for the Agricultural Conservation Easement Program (ACEP) should be developed in accordance with the following format and guidance. You may insert information directly into this document, as is, or provide additional information in a separate attachment. Provide all the requested information including the checklist on the last page, sign the certification statement in Part B, and submit to:

David Colburn, Easements Coordinator
USDA Natural Resources Conservation Service
Denver Federal Center
Building 56, Room 2604
P.O. Box 25426
Denver, CO 80225

[Note: Do not include the PO Box if using FedEx or UPS]

Proposals must be received by 4:00 P.M. MST, January 20, 2017

The following outlines the required documentation to be submitted for consideration of funding in the ACEP Program.

Refer to the *2017 Colorado ACEP – ALE Ranking Tool* as you work through this guide. Scoring and final ranking will rely on the information you submit in your proposal.

For more information or assistance in completing your proposal, please contact David Colburn:
Phone: (720)544-2820 / e-mail: david.colburn@co.usda.gov

A. APPLICANT INFORMATION

Complete form NRCS-CPA-41: Entity Application for Agricultural Land Easement (ALE)

Agreement. *(One per entity unless you are submitting a GSS application then you need to submit two (2), one for the general applications and one for the GSS application)*

To be considered as an Eligible Entity an entity must be one of the following: An agency of any State or local government or Indian Tribe (including a farmland protection board or land resource council established under State law) or an eligible nongovernmental organization.

Entity Eligibility Requirements:

(1) To participate in the ACEP-ALE, eligible entities must provide sufficient documents for the State Conservationist to make a determination that the entity has – (i) Authority to purchase and hold agricultural conservation easements; (ii) An established farmland protection program that purchases conservation easements for the purpose of protecting agriculture use and related conservation values by limiting conversion of nonagricultural uses of the land; (iii) Demonstrated a commitment to the long-term conservation of agricultural lands; (iv) The authority and capability to acquire, manage, and enforce agricultural land easements or their equivalent; (v) Staff capacity (either directly or through formal agreement with other entities) dedicated to monitoring and easement stewardship; (vi) The availability of funds at the time of application sufficient to meet the eligible entity’s contribution requirements for each parcel proposed for funding; (vii) The ability to meet the requirements of the program.

(2) Entities with existing ACEP-ALE or Farm and Ranch Lands Protection Program (FRPP) agreements or easements that are delinquent or deficient in satisfying the terms of those agreements or easements may be determined ineligible for funding under ACEP-ALE until such time as deficiencies are addressed. These deficiencies may include, but are not limited to – (i) Failing to conduct or provide annual monitoring reports to NRCS or providing annual monitoring reports that are insufficient or late; (ii) Existing FRPP or ACEP-ALE agreements with funds remaining more than 2 years after the attachment execution date without any expenditures or actions towards closings of easements in the third year.

(3) Provide a brief summary (below or in an attachment) of your organization’s - (i) Commitment to long-term conservation of agricultural lands: (include number of easements, total acres, etc.); (ii) Capability to acquire, manage, and enforce easements; (iii) Number of staff dedicated to monitoring and easement stewardship: (Include a description of your staff and their roles in performing duties); (iv) The availability of funds at the time of application sufficient to meet the eligible entity’s contribution requirements for each parcel proposed for funding; (v) Title and appraisal policies or standards: (Describe your organization’s policies regarding use and review of title information and appraisals. Provide a copy of your official policy, if available. For example: Do you secure title insurance on your easements? If so, who reviews the title commitment binder? Do you perform reviews of appraisals? What percentage undergoes a technical review (by another qualified appraiser versus an administrative review by someone else); (vi) If you are a non-governmental entity, do you have a dedicated fund to support ongoing easement management, monitoring, and enforcement? Please describe.

B. OTHER REQUIREMENTS

1. A copy of the draft conservation easement(s) you intend to use. (Please, insert the “Minimum Terms for Agricultural Land Easements”—language provided in a separate document in the cut-off date notice package.)
2. Indicate the priority of the offers if you are submitting proposals for more than one project.
3. Completed proposal checklist (see page 10).
4. For each application (parcel) submit the following:
 - **SF-424 “Application for Federal Assistance”**
 - **SF-424A “Budget Information for Non-Construction Programs”**
 - **SF-424B “Assurances Non-Construction Programs”**

5. Provide us with your organization’s “DUNS Number” (Dun & Bradstreet “Data Universal Numbering System”) and evidence of registering your organization in the System for Award Management Site (SAM). For DUNS information: <http://fedgov.dnb.com/webform/displayHomePage.do>
For SAM information: www.SAM.gov

Note: When registering online, ignore any pop up messages that may appear offering assistance with the process. The registration for both is free. Note, too, that the SAM registration must be updated at least annually.

I certify that, to the best of my knowledge and belief, the information in this application for federal assistance and in the supporting materials is true, correct, and complete. I further understand that if any information is missing this proposal will be ineligible for funding and if the format, prescribed herein, has not been observed, this proposal may be discounted or declared ineligible for funding.

Name (print): _____ Title: _____

Signature: _____ Date: _____

C. PARCEL INFORMATION

1. Your proposal must include: Form NRCS-CPA-41A: Parcel Sheet (Landowner) Application for an Agricultural Land Easement (ALE) Agreement.
2. Name(s) and address(es) of each landowner of record - ***(Copy of deed and title required)***
3. Local parcel or tax identification number
4. Size (in acres) of the offered parcel(s)
 - If this application is part of a phased easement acquisition, provide us the total acreage of the property and the number of acres already, or planned to be, placed under easement.
5. Legal description of the offered parcel(s) (section, township, range)
6. Describe the agricultural operation:
 - (products, marketing, proximity to other agricultural operations and agricultural infrastructure, labor, water, etc.)
7. Local zoning for the property (if applicable)
 - location of the parcel in an area zoned for agricultural use.
8. Project Funding Summary: ACEP-ALE cost-share assistance will not exceed 50 percent of the fair market value of the agricultural land easement. The eligible entity must provide an amount that is at least equivalent to the Federal share. An eligible entity may include as part of its share a qualified conservation contribution from the landowner if the eligible entity contributes its own cash resources in an amount that is at least 50 percent of the Federal share. A qualified conservation contribution from the landowner is either a charitable donation or qualified conservation contribution as defined by section 170(h) of the Internal Revenue Code of 1986. There is no requirement for landowner donations under ACEP-ALE.

General ACEP-ALE Enrollments

A. Appraised Fair Market Value of the Agricultural Land Easement	\$
B. Grantor (Landowner) Donation (the portion of A that is given to the eligible entity by the Grantor as a charitable donation or qualified conservation contribution (as defined by section 170(h) of the Internal Revenue Code of 1986)). <i>Landowner shall not donate any part of C, D, or E back to the cooperating entity.</i>	\$
C. Agricultural land easement purchase price	\$
D. Eligible entity contribution paid to the Grantor from the eligible entity’s cash resources* (<i>D must be at least 50% of E unless an eligible entity cash contribution waiver is approved by NRCS. Eligible entity must attach cash contribution waiver approval.</i>)	\$
E. Federal share paid to the Grantor (Landowner) through eligible entity** (<i>E must not exceed 50% of A</i>)	\$
*Administrative and planning costs are not counted as part of the entity cash contribution or as part of the purchase price. **ACEP funds provided to the eligible entity must not be used for administrative costs such as appraisal, survey, title insurance, legal fees, easement monitoring, or other related transaction costs or planning costs, such as baseline documentation or agricultural land easement plan development.	

Note: “Entity Contribution” means cash that is either “in hand” or “committed”—as with an award from another funding source. Attach a copy of the award letter or commitment letter, whichever is applicable.

ACEP-ALE Grassland of Special Environmental Significance Enrollments

A. Appraised fair market value of the agricultural land easement on grassland of special environmental significance	\$
B. Grantor (Landowner) donation (the portion of A that is given to the eligible entity by the Grantor as a charitable donation or qualified conservation contribution (as defined by section 170(h) of the Internal Revenue Code of 1986)). Landowner shall not donate any part of C , D , or E back to the eligible entity.	\$
C. Agricultural land easement purchase price	\$
D. Eligible entity cash contribution paid to the Grantor from the eligible entity’s cash resources* (D must be at least 33.33% of E unless an eligible entity cash contribution waiver is approved by NRCS. Eligible entity must attach cash contribution waiver approval.)	\$
E. Federal share paid to the Grantor (Landowner) through eligible entity for an ACEP-ALE on grassland of special environmental significance** (E must not exceed 75% of A)	\$
*Administrative and planning costs are not counted as part of the entity cash contribution or as part of the purchase prices. **ACEP funds provided to the eligible entity must not be used for administrative costs such as appraisal, survey, title insurance, legal fees, easement monitoring, or other related transaction costs or planning costs, such as baseline documentation or agricultural land easement plan development.	

Note: “Entity Contribution” means cash that is either “in hand” or “committed”—as with an award from another funding source. Attach a copy of the award letter or commitment letter, whichever is applicable.

9. Aerial photo(s) and/or map(s) (e.g., 7.5’ USGS topographic map) that depicts the location of the offered parcel in relation to other protected lands that are at least equal in size to the county’s average farm size (*2012 Census of Agriculture*). This includes lands owned by federal, state, or local governments, or by an entity whose purpose is to protect agricultural use and related conservation values, or land that is already subject to an easement or deed restriction that limits the conversion of the land to nonagricultural use. *Provide enough information to allow us to complete the scoring for SA-1 B in the Scoring System (e.g., include an accurate scale).*

10. Aerial photo(s) and/or map(s) (e.g., 7.5’ USGS topographic map) that depicts the location of the offered parcel in relation to other viable agricultural operations. Identify operations that are at least equal to the average farm size in the county (*2012 Census of Agriculture*) **and** which are considered to be agriculturally viable for the foreseeable future. *Provide enough information to allow us to complete the scoring for SA-1 C in the Scoring System (e.g., include an accurate scale).*

11. Water availability. Summarize the extent of irrigation on the offered parcel(s) and the source and reliability of the water. **Include a map that depicts all irrigated land.** If there is grazing land in the parcel, describe how water is distributed to support effective management of livestock and sustainable use of rangeland resources. Summarize the water rights that will be conveyed with the easement to support the conservation values. *Note: To be eligible for ACEP, water rights are necessary to maintain the irrigated condition of the qualifying soils.*

12. Describe the conservation values this parcel supports. *This information will be used for the Colorado ACEP – ALE Ranking Tool, so the more complete your response, the better the score is likely to be. Please include photos or electronic images that depict the environmental amenities/conservation values of the property.*

13. Current total impervious surface on offered parcel: _____ % of total area.
 (“Impervious surface” includes surfaces that are paved, covered by concrete, or occupied by buildings, with or without floors. Conservation practices listed in the NRCS Field Office Technical Guide are exempt from the definition for ACEP purposes.)

14. Does the landowner own the subsurface/mineral estate? Yes No
 If “yes,” is it subject to any outstanding lease(s)? Yes No
Provide an explanation of the potential risk to the property from exploration and development activities related to the subsurface estate.

15. Does the Grantor wish to retain any reserved building rights? Yes No
 Provide a brief summary describing why these may be needed, along with a map depicting any desired building envelope. (*Note: See attached – Minimum Terms for Agricultural Land Easements*)

16. Does the landowner wish to reserve a right to subdivide the parcel? Yes No
 (*Note: See attached – Minimum Terms for Agricultural Land Easements - Fiscal Year 2017 Funded.*)

17. Land Use/Cover Summary. *Insert acreages relevant to the offered parcel in the table below.*

Land Use/Cover	Acres	% of Total Area
Cropland - <i>Land used primarily for the production and harvest of annual or perennial field, forage, food, fiber, horticultural, orchard, vineyard, or energy crops.</i>		
Rangeland - <i>Land on which the historic and/or introduced vegetation is predominantly grasses, grass-like plants, forbs or shrubs managed as a natural ecosystem. Range land may include natural grassland, savannas, shrublands, tundra, alpine communities, marshes and meadows.</i>		
Grassland - <i>Or land that contains forbs, or shrubland for which grazing is the predominant use.</i>		
Pastureland - <i>Land composed of introduced or domesticated native forage species that is used primarily for the production of livestock. Pastures receive periodic renovation and cultural treatments, such as tillage, fertilization, mowing, weed control, and may be irrigated. Pastures are not in rotation with crops.</i>		
Nonindustrial private forestland – <i>Land that contributes to the economic viability of an offered parcel or serves as a buffer to protect such land from development.</i>		
Incidental Lands (headquarters, etc.)		
Totals:		

18. Is the land currently enrolled in CRP in a contract that is set to expire within one year and is grassland that would benefit from protection under a long-term easement? Yes No

(This criteria is not specific to GSS but is specific to the grassland eligibility category for ACEP-ALE)

D. Land Eligibility Category for the Parcel (Select One):

(1) Eligible land must be privately owned or Tribal land on a farm or ranch that meets one of the four following land eligibility criteria:

- (i) Has prime, unique, or other productive soil? Yes No
- (ii) Does the land contain historical or archaeological resources? Yes No
- (iii) Protects grazing uses and related conservation values? Yes No
- (iv) Furthers a State or local government policy consistent with the purposes of the ACEP?
 Yes No

A. Is this an application for a Grassland of Special Environmental Significance (GSS) ALE Agreement?
 Yes No

Note: If the “Yes” box is not checked, the land is not eligible for this program.

(2) If land offered for enrollment is determined eligible, then NRCS may also enroll land that is incidental to the eligible land if the incidental land is determined by NRCS to be necessary for the efficient administration of an agricultural land easement.

(3) Incidental land includes such land as farmstead areas, other areas with agricultural buildings and infrastructure, forest land, and nonforested wetlands. The acres of incidental land must not exceed the acres of otherwise eligible land. Taken together, the eligible land and incidental land may not include forest land of greater than two-thirds of the total ACEP-ALE area unless the two-thirds acreage limitation is waived by the State Conservationist for sugar bush lands. Land that is incidental to the eligible land and that is not otherwise eligible, may be included in an ACEP-ALE easement if the State Conservationist determines any of the following apply to the incidental land:

- (i) Is necessary for the efficient administration of an agricultural land easement
- (ii) Significantly augments the protection of the associated farm or ranch land
- (iii) Contributes to the grassland functions and values and related conservation values and is included as part of a written pending offer

Complete the table below to allow scoring. *Obtain a custom soils report from the local NRCS office. To locate the nearest office, go to: <http://www.nrcs.usda.gov/wps/portal/nrcs/main/co/contact/>*

You can also create your own reports (highly recommended) by using our Web Soil Survey tool at <http://websoilsurvey.nrcs.usda.gov/app/HomePage.htm>.

DO NOT INSERT MORE ROWS! ONLY USE THE CATEGORIES THAT ARE LISTED!!

(Guidance on performing this is included on page 9 of this document.)

Soils Category	Acres	% of Parcel
Prime if ¹		
Unique ²		
Farm or Ranch Land of State or Local Importance ³		
Other agricultural lands		
Non-agricultural Areas (e.g., headquarters, water bodies)		
Totals:		

¹ Prime – 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 NRCS.

² Unique – Land other than prime farmland that is used for the production of specific high-value food and fiber crops, as determined by NRCS. It has a 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 in accordance with acceptable farming methods.

³ Farmlands of Statewide Importance – Land other than prime or unique farmland that is of statewide importance for the production of food, feed, fiber, forage, bio-fuels, or oilseed crops. The appropriate State or local government determines statewide or locally important farmland with concurrence from the State Conservationist. Generally, these farmlands produce high yields of crops when treated and managed in accordance with 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.

4. Do you have proof of a pending offer? Yes No (**Attach the pending offer**)

(1) Written Pending Offer.—Eligible land must be subject to a written pending offer by an eligible entity.

(i) A pending offer is a written bid, contract, or option to convey a conservation easement for any of the following purposes: Protecting agricultural uses; Protecting historical or archaeological sites from destructive practices; Protecting grazing uses and related conservation values by restoring and conserving land; Furthering ACEP-ALE policy or policy consistent with the purposes of ACEP-ALE Protecting agricultural

(ii) The written pending offer may be extended by the eligible entity to the landowner to acquire the conservation easement or may be from the landowner to the eligible entity to sell the conservation easement. The State Conservationist will determine the sufficiency of the written pending offer for the purposes of determining ACEP-ALE eligibility.

(iii) A written pending offer may take the form of a signed option-to-purchase agreement or other type of purchasing agreement, a letter of intent to sell the easement, an offer letter from the landowner to the eligible entity, or other similar documentation. A pending offer may document a landowner's intent to sell the easement without a commitment to a purchase price as many offers are made before the appraisals are completed.

(iv) Pending offers must be for a conservation easement in perpetuity, except where State law does not authorize permanent easements.

(v) A copy of the written pending offer must be provided by the entity at the time of application and must be retained in the easement case file for the individual parcel.

5. Does this parcel have long-term viability for agricultural use? Yes No

Describe the operation's agricultural production, access to markets, access to infrastructure that is appropriate for supporting agricultural production, and other support services.

(Note: The State Conservationist reserves the right to determine a proposal ineligible for ACEP, if long-term agricultural viability is questionable or if circumstances appear to place an ACEP investment at risk.)

6. Does the offered parcel face development pressure? Yes No

(Provide a narrative description of the development pressure affecting the property and the region. Include one or more aerial photos or maps—with North arrow and scale—that depict development and "development pressures" within up to twenty (20) miles of the parcel's boundaries. (This is needed for scoring.) Identify urban infrastructure (water/sewer extensions), municipal boundaries, urban growth boundaries, rural subdivisions, 35-acre subdivisions, non-ag zoning, energy infrastructure development, etc.

7. Is the land already subject to an easement or other deed restriction that prevents its conversion to non-agricultural uses? Yes No

E. ADDITIONAL REQUIREMENTS

1. Is a form “NRCS-CPA-41A: *Parcel Sheet for Entity Application for an Agricultural Land Easement (ALE) Agreement*. - completed by the landowner(s) - included in your application package? Yes No
2. Is a form NRCS-CPA-41: *Entity Application for Agricultural Land Easement (ALE) Agreement* - completed by the land trust - included in your application package? Yes No
3. Adjusted Gross Income (AGI): Has the landowner submitted form CCC-941, “Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information” Agricultural Act of 2014 to the USDA Farm Service Agency (FSA)? Yes No

Note: Landowner(s) must certify to having an average annual adjusted gross income (AGI) equal to or less than \$900,000.00 for the previous three tax years for both on-farm and off-farm income. Landowners should address this immediately to avoid delays in processing this application. If the landowner is an entity, additional forms may be needed by FSA to verify AGI status at the individual level—e.g., “CCC-901” or “CCC-902E.” Check with FSA. Submit a copy of these form(s) with your application package.

4. Has the landowner submitted form “AD-1026, Highly Erodible Land and Wetland Conservation Certification” to the USDA Farm Service Agency? Yes No
Notes: (1) Compliance with the highly erodible land and wetland conservation provisions is required—on all land persons have an interest in, anywhere in the United States—in order to be eligible to receive USDA payments (including ACEP). (2) If the form has been submitted before and there has been no change in ownership or land use, the form doesn’t need to be resubmitted. (3) If a person is determined to be out of compliance—on any land in any state—all USDA payments are in jeopardy for that crop year and all subsequent crop years the person remains out of compliance. Submit a copy of this form with your application package.
5. Have you included a title commitment and deed (**both required**) in your application package? Yes No
6. Have you included your boundary ESRI shapefiles or boundary CAD files (DWG, DXF, and DGN) if you don’t have GIS software? Yes No

Coordinate information: Geospatial data coordinate system requirements – information on the exact geographic or projected coordinate system is required. Geographic or Projected coordinate information must be included with CAD or shapefile data. When submitting shapefile data, please ensure the shapefile data geographic/projected coordinate system is DEFINED in ESRI GIS software before submitting the data.

Web Soil Survey

Directions for obtaining the soils report required for ACEP proposals.

1. Go to <http://websoilsurvey.nrcs.usda.gov/app/HomePage.htm>.
If for some reason, this link doesn't work for you, go to our home page: <http://www.nrcs.usda.gov/>.
Click on "Soils" in the "Quick Access" list on the left.
Click on "Web Soil Survey" in the Quick Access list on the left.
2. Click the big green button "START WSS."
3. Select your "method of navigation" on the left.
"State and County" is probably your best bet.
4. Click the "View" button when you've made your selections.
5. Use the icons on the interactive map to identify the parcel (the "Area of Interest" or "AOI").
6. Use the "AOI" button in the toolbar (far right) to outline the "Area of Interest."
7. Close the loop by double-clicking on the beginning point. Your "Area of Interest" will be cross-hatched in blue.
8. Click the "Soil Data Viewer" tab near the top of the screen.
9. Click on "Land Classifications" on the left.
10. Click on "Farmland Classification." (For hydric soils reports, click on "Hydric Rating by Map Unit.")
11. Click on "View Rating." An interpretive soils map appears.
12. Click on the "Printable Version" button located near the top right of the screen.
13. A window appears. You may enter a custom title for the report, or you may ignore this altogether. Click the "View" button.
14. A custom interpretive report is generated with map, list of soil mapping units with Important Farmlands interpretations and acres represented in the "AOI."
15. You may print and/or save the report at this point.
16. To make changes or to start a new report, close the report window, then click on the "Area of Interest (AOI)" tab on the top far left of the screen. You may now generate additional interpretive reports if you wish, or click the "Clear AOI" button to begin a new search.

Note: Some of the "soils" information cannot be answered with a soils report alone, since the Web Soil Survey does not track status of irrigation. A map depicting the extent (acres and percent of total offered acres) of irrigation must be provided and used in conjunction with the soils report to complete the table in D.2.a. (above).

ACEP Proposal Checklist

Attach this checklist to your proposal. If there is more than one property, submit one checklist for each individual property.

All of the information listed below is required to be submitted with the application!

A. APPLICANT (Entity) INFORMATION

- 1. Name & address
- 2. Type of entity
- 3. NRCS-CPA-41
- 4. CCC - 901

B. Other Information

- 1. This checklist
- 2. Priority of offer
- 3. Draft deed of conservation easement with ACEP-required language (and approved deed template if applicable)
- 4. SF-424, SF-424A and SF-424B
- 5. 1199A – Direct deposit (Entity)
- 6. DUNS number and SAM registration (Entity)
- 7. Name and signature of person submitting proposal

C. PARCEL INFORMATION

- 1. Name(s) and address (es) of each landowner of record
- 2. NRCS-CPA-41A
- 3. Copy of deed to document ownership
- 4. Copy of title to document ownership
- 5. Local parcel or tax identification number
- 6. Size (in acres) of the offered parcel(s)
- 7. Legal description of the offered parcel(s)
- 8. Describe the agricultural operation
- 9. Local zoning for the property
- 10. Project Funding Summary
- 11. Aerial photo/map depicting the offered parcel in relation to other protected lands
- 12. Aerial photo/map depicting the offered parcel in relation to other viable agricultural operations
- 13. Water availability
- 14. Other Conservation Values
- 15. Current total impervious surface
- 16. Subsurface/mineral estate
- 17. Reserved building rights
- 18. Reserved subdivision right
- 19. Ingres/Egress

D. LAND ELIGIBILITY

- 1. Land is privately owned and used for farming or ranching
- 2. Land satisfies either **(i), (ii), (iii), (iv) or Grassland of Special Environmental Significance**
- 3. Proof of a pending offer – submit with application package.
- 4. Long-term agricultural viability
- 5. Development pressure
- 6. Already subject to an easement or other deed restriction

E. ADDITIONAL REQUIREMENTS

- 1. Form “AD-1026: Highly Erodible Land and Wetland Conservation Certification” filed with FSA
- 2. Form CCC-941: Average Adjusted Gross and if needed CCC-901 or CCC-902E (Landowner if entity) filed with FSA