

Agricultural Conservation Easement Program  
USDA NRCS New Mexico Application Guide  
Fiscal Year 2016

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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:

Seth Fiedler, Resource Conservationist  
USDA Natural Resources Conservation Service  
6200 Jefferson St NE  
Albuquerque, NM 87112  
*[Note: Do not include the PO Box if using FedEx or UPS]*

**Proposals must be received by 4:00 P.M. MST, January 15, 2016**

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

For more information or assistance in completing your proposal, please contact Seth Fiedler:  
Phone: (505) 761-4416 / e-mail: [seth.fiedler@nm.usda.gov](mailto:seth.fiedler@nm.usda.gov)

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**A. APPLICANT INFORMATION**

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

To be considered as an Eligible Entity: Eligible entity means an Indian Tribe, State government, local government, or a nongovernmental organization which has a farmland or grassland protection program that purchases agricultural land easements for the purpose of protecting agriculture use and related conservation values, including grazing uses and related conservation values, by limiting conversion to nonagricultural uses of the land. (1) To be eligible to receive ACEP–ALE funding, an Indian Tribe, State, unit of local government, or a nongovernmental organization must meet the definition of eligible entity as listed in § 1468.3. (2) All entities identified on the application or agreement must: (i) Ensure that their records and the records of all landowners with parcels selected for funding have been established in the USDA customer records system and are responsible for ensuring that USDA has all the documentation needed to establish these records, and (ii) Comply with applicable registration and reporting requirements of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282, as amended), and 2 CFR parts 25 and 170, and maintain such registration for the duration of the cooperative agreement.

2. 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 (entity) priority of the offers if you are submitting proposals for if more than one parcel is to be included in the proposal.
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](http://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 or if the format, prescribed herein, has not been observed, this proposal may be discounted or declared ineligible for consideration.*

Name (*print*): \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## **C. PARCEL INFORMATION**

1. **Your proposal must include: Form NRCS-CPA-41A: Parcel Sheet for Entity 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)***
2. Local parcel or tax identification number
3. 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.
4. Legal description of the offered parcel(s) (section, township, range)
5. Describe the agricultural operation:
  - (products, marketing, proximity to other agricultural operations and agricultural infrastructure, labor, water, etc.)
6. Local zoning for the property (if applicable)
  - location of the parcel in an area zoned for agricultural use.
7. 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**

<b>A.</b> Appraised Fair Market Value of the Agricultural Land Easement	\$
<b>B.</b> Grantor (Landowner) Donation (the portion of <b>A</b> 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>	\$
<b>C.</b> Agricultural land easement purchase price	\$
<b>D.</b> 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> )	\$
<b>E.</b> 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, if applicable.

**ACEP-ALE Grasslands of Special Environmental Significance Enrollments**

A. Appraised fair market value of the agricultural land easement on grasslands 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 grasslands of special environmental significance** (E must not exceed 75% of A)	\$
<p>*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.</p>	

➤ 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, if applicable.

8. 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 median 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).*
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 viable agricultural operations. Identify operations that are at least equal to the median 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).*
10. 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.*
11. Describe the conservation values this parcel supports. *This information will be used for the New Mexico 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.*

12. 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.)
13. 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.*
14. 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 - Fiscal Year 2015 Funded.*)
15. 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 2015 Funded.*)
16. 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 grasslands, 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.)		
<b>Totals:</b>		

17. 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 grasslands eligibility category for ACEP-ALE)*

**D. Eligible Land Types:**

(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) Does the land contain at least 50 percent prime, unique, statewide, or locally important soil designations?  Yes  No

(ii) Does the land contain historical or archaeological resources?  Yes  No

(iii) Protection of Grazing uses and Related Conservation Values. – Does the land the enrollment is for protect grazing uses and related conservation values by restoring and conserving land?  
 Yes  No

(iv) Does the land further a state or local policy?  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.co.nrcs.usda.gov/about/areamap.htm>.*

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>.

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

Soils Category	Acres	% of Parcel
Prime if <sup>1</sup>		
Unique <sup>2</sup>		

Farm or Ranch Land of State or Local Importance <sup>3</sup>		
Other agricultural lands		
Non-agricultural Areas (e.g., headquarters, water bodies)		
<b>Totals:</b>		

<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> 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 proof). At minimum, the documentation must demonstrate intent and the presence of a willing seller and willing buyer. A “pending offer” is a written bid, contract, or option extended to a landowner by an eligible entity to acquire a conservation easement for the purpose of limiting non-agricultural uses of the land. Pending offers must be for acquiring easements in perpetuity. New Mexico NRCS will accept “letters of intent,” provided they clearly demonstrate a commitment by both Grantor and Grantee to work towards the conveyance of a conservation easement.)*
  
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 this 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.

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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

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

### A. APPLICANT INFORMATION

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

### B. Other Information

- 1. Draft deed of conservation easement with ACEP-required language
- 2. Priority of offer
- 3. This checklist
- 4. SF-424, SF-424A and SF-424B
- 5. 1199 – Direct deposit (Land Trust)
- 6. DUNS number and SAM registration (Land Trust)
- 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 (**Required**)
- 4. Copy of title to document ownership (**Required**)
- 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 vis-à-vis 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

### D. LAND ELIGIBILITY

- 1. Land is privately owned and used for farming or ranching
- 2. Land satisfies either **a**, **b**, or **c**
- 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 (Submit both forms with your application package)

- 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