

Attachment C

Agricultural Conservation Easement Program ACEP

(December 2016)

Program Description

Fairly new – since 2014 farm bill.

Replaces Grassland Reserve Program and Wetland Reserve Program

Two Parts:

Agricultural Land Easement (ALE)

**All easements held by nonprofit eligible entities (i.e. MPF)
Agreements entered into with, and funds provided to, eligible
entities.**

Includes Farmland Ranch Protection Program FRPP and Grassland Reserve purposes

Wetland Reserve Easement component

Easements held by United States

Agreements entered into with and funds provided to landowners

Includes Wetland Reserve Program purposes

ACEP-ALE two mechanisms for grassland enrollments:

General ACEP-ALE

Cropland, non-native grasslands

Federal Cost Share provided by NRCS is 50% of appraised easement value

Grasslands of Special Significance (GSS)

**Definition – Grasslands that contain little or no noxious or
invasive species, as designated or defined by State and
Federal Law, are subject to the threat of conversion to
non grassland uses or fragmentation and the land is:**

**Rangeland, pastureland, or shrubland on which the
vegetation is dominated by native grasses, grass-
like plants, shrubs, or forbs OR**

**Improved naturalized pastureland or rangeland AND
Provides or could provide habitat for threatened or
endangered species or at risk species**

**Protects sensitive or declining native prairie or
grassland types, OR**

Provides protection of highly sensitive natural resources

(Note: Most any native prairie in Missouri would meet this definition)

Agreement and deed address protection of the grazing uses of

grassland values.
**Federal Cost Share provided by NRCS at 75% of appraised
easement value**

Land Eligibility

Land must be:

Cropland, rangeland, pastureland, grassland that contains forbs or shrubland which grazing is the predominant use, located in an area that has been historically dominated by grass land forbs, or shrubs and could provide habitat for animal or plant populations of significant ecological value, or nonindustrial private forest land that contributes to the economic viability of an offered parcel serves as a buffer to protect such land from development.

Land that is in an area having access to agricultural markets for its products, infrastructure appropriate for supporting agricultural production and other support services.

Land that faces development pressure from nonagricultural use.

Land Ineligibility

Lands owned by government agencies or Indian Tribes

Land subject to an easement or deed restriction which provides similar protection as would be provided by enrollment in ACEP

Land where the purposes of the program would be undermined due to onsite or offsite conditions such as risk of hazardous substances proposed or existing rights of way, infrastructure development, or adjacent land uses

Lands without sufficient access to the entire easement area

Sufficient legal access for ACEP insurable, unconditional and transferable legal right of recorded access for the duration of the easement.

It is the LANDOWNER'S responsibility to provide sufficient legal access to the Cooperating Entity which will through our 3rd party right of enforcement be conveyed to NRCS.

Entity Eligibility

Entity must provide documentation to NRCS demonstrating:

Authority to purchase and hold easements (MPF may have to establish this?)

An established farmland protection program.

Staff Capability dedicated to monitoring and stewardship.

Availability of sufficient matching funds at time of application.

A written pending offer for at least on parcel.

Must have DUNS/SAM number

Landowner Eligibility

Determined for all landowners of record as identified on the current land

ownership document
HEL/WC compliant Highly Erodible Land/Wetland Conservation
AGI compliant Adjusted Gross Income

Easement Compensation

Appraisals methodologies are limited to Uniform Standards of Professional Appraisal Practice (USPAP) or Uniform Appraisal Standards for Federal Land Acquisition (commonly called yellow book) appraisals (more expensive)

Entity Match Requirements and Waiver Process for Grasslands of Special Significance

NRCS may waive a portion of the eligible entity's cash contribution requirement if:

No increase in the federal share provided by the NRCS beyond the 75% contribution.

**There is a voluntary equivalent increase in the private landowner donation.
The land is in active agricultural production.**

Example 1 (with waiver):

NRCS share	75.0%	\$ 750,000
Entity share	12.5%	\$ 125,000
Landowner share	12.5%	\$ 125,000
<hr/>		
Total	100%	\$1,000,000

Example 2 (Maximum Landowner contribution with waiver):

NRCS share	75%	\$ 750,000
Entity share	6.25%	\$ 62,500
Landowner share	18.75%	\$ 187,500
<hr/>		
Total	100%	\$ 1,000,000

Note: the entity percent could be reduced to 2.5% if Missouri was a "State Tax Credit State"

Eligible Entity Cash Contribution Waiver

Waive request packets must include:

A signed letter from the entity to the State Conservationist

A signed letter from the landowner confirming the donation is voluntary and describes the property's active agricultural production.

Independent evidence of the property's active agricultural production.

Evidence of significant threat of development or fragmentation in proximity

to the parcel location and including for grassland parcels if there is any threat of conversion to nongrassland uses.

Map of prime soils or grasslands showing land to be enrolled and proximity of other protected areas.

Aerial photograph identifying the land of special significance and a map or photograph of the surrounding project area, if applicable.

A description of the substantial positive and direct outcome (quantified as much as possible) expected from implementing the agricultural land easement and associate agricultural land easement plan on the particular parcel.

Identify the requested reduction %

Clearly Identify the significance of the land in an applicable plan, report, map designation, or other document.

Easement Plans

All ACEP-ALE easements must be subject to an:

Agricultural easement plan

In addition, there must be a Grasslands Management Plan for grasslands and a Conservation Plan for Highly Erodible Land (HEL)

Agricultural easement plan is the overarching easement plan that must:

Include conservation –practices that address the resource concerns for which the parcel was selected

Describe activities that promote long-term viability of the land to meet easement purposes, including a Farm or Ranch succession Plan

Describe the farm management system, including baseline information

Identify specific criteria associated with permissible and prohibited activities in the deed

Describe NRCS right of ingress and egress

Include any required component plans

The eligible entity is responsible for the Agricultural Land

Easement Plan

NRCS Review and approval is required prior to closing the ALE

The eligible entity can select who will develop the plan either:
NRCS

Eligible entity themselves

A third party

Statement of work to cooperative agreement

The Statement of Work outlines the provisions of the Cooperative Agreement

and provides information, instruction and establishes deadlines

(Note: the following deadlines were for 2016 applications)

The agreement is valid for 3 years, not to exceed 5 years

The scheduled closing deadline is March 31, 2019

The payment request deadline is July 31, 2019

Attachment expiration is August 31, 2019

Minimum deed terms are attached

Submission deadlines are embedded for appraisal, baseline report,
easement deed review, title work review.

General ALE

GSS

**Some Pros, Cons, and Considerations for MPF participation in the
ACEP-ALE-GSS Program**

MPF currently has a verbal expression of interest from a landowner who would like for MPF to hold an NRCS ACEP-ALE-GSS easement on approximately 1500 acres of mostly native prairie in two separate parcels. The Landowner is willing to contribute the maximum contribution allowed under NRCS rules (18.75%) toward the appraised value of the easement.

The Landowner is an active member and board member of MPF and would have to be recused from any decisions and deliberations the board may make concerning this matter.

The application will have to include an estimate of the easement value of easement will be, before the easement is done. In Kansas, easement values were about 25-30% of the total land value. MPF would have to pay for the appraisal. However, MPF is not committed to accepting the easement until the appraisal is done and the actual price is known.

The Easement plans are very critical documents for this program. The NRCS will provide some standard boiler-plate verbiage, but MPF can add as much as it wants as long as it does not violate NRCS rules. MPF would undoubtedly want to get input on easement verbiage from other nonprofit Land Trusts who have already done ACEP easements. Much thought should be given to cover all the “what ifs” that might occur during a perpetual easement and many different landowners.

The NRCS would hold the MPF legally and financially responsible if the landowner destroyed the prairie covered in the easement.

The land owner is responsible for all stewardship costs, but MPF would be responsible for monitoring costs, that is, monitoring the prairie for deterioration, development, or destruction.

The cost for protecting prairie in this case is very appealing: \$62,500 to protect 1500 acres comes to \$42/acre. Much less than the \$2000+/acre to purchase and less than 2% of the cost to buy. 1500 acres would almost double the amount of native prairie MPF currently protects for less than \$70,000.

However, while MPF could restrict some agricultural activities, MPF would not prevent the landowner from agricultural uses. This means MPF would be protecting prairies from development, conversion, and deterioration, but would not be gaining a large increase in biological benefits assuming grazing and haying would continue.

The NRCS does the hazardous environmental assessment

Possible MPF action needed to embark on ACEP easement program

In order to proceed with acquiring this ACEP easement, MPF may need to consider passing a few new authorizations. Following are possible motions that may be needed.

That the MPF be authorized to purchase, acquire, and maintain easements for the protection of ecologically significant properties in Missouri.

That monies in MPF's Land Acquisition Fund be available to purchase conservation easements on land of ecological significance. AND/OR That MPF set up a new Easement Fund to collect monies for purchase of conservation easements and costs associated with such acquisitions on land of ecological significance.

That the MPF set up an Easement Stewardship Fund for the monitoring and restoration of easements acquired by MPF.