



FARMLAND
INFORMATION
CENTER

FACT
SHEET

FARM AND
RANCH LANDS

PROTECTION
PROGRAM



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DESCRIPTION

The Farm and Ranch Lands Protection Program (FRPP) is a voluntary federal conservation program that provides matching funds to eligible entities to buy permanent conservation easements on farm and ranch land. The program was originally enacted in the Federal Agriculture Improvement and Reform Act of 1996. It was reauthorized and expanded in the Farm Security and Rural Investment Act of 2002. Funding for the FRPP comes from the Commodity Credit Corporation, the same federal entity that finances farm income support payments and conservation payments. The USDA Natural Resources Conservation Service (NRCS) manages the program.

ELIGIBILITY

To qualify for the FRPP the land must be part of a privately owned farm or ranch and must:

- Contain prime, unique or other productive soil—at least 50 percent unless otherwise determined by the state conservationist—or historical or archaeological resources;
- Be included in a pending offer from a state, tribal or local government or non-governmental organization's farmland protection program; and
- Be owned by an individual or entity that does not exceed the Adjusted Gross Income (AGI) limitation.¹

In addition, most state FRPP plans (see below) consider whether the parcel is:

- Large enough to sustain agricultural production;
- Accessible to markets for what is produced on the land; and
- Near other protected agricultural land that can support long-term agricultural production.

Eligible land includes cropland, rangeland, grassland, and pasture land. Forest land may be included if it is an incidental part of the operation—meaning that it comprises less than 50 percent of the acreage submitted in the pending offer. Other incidental land may be considered eligible if inclusion of such land would significantly augment protection of the associated farm or ranch land.

To be eligible to apply to the program entities must:

- Be federally recognized Indian tribes, states, units of local government or nongovernmental organizations that have a farmland protection program that buys agricultural conservation easements for the purpose of protecting agricultural land from conversion to non-agricultural uses; and
- Have pending offers for acquiring conservation easements.

For the purposes of the FRPP, “non-governmental organization” means a tax-exempt organization formed for the conservation purposes set forth in Internal Revenue Code Section 170(h)(4)(A). These purposes include the preservation of land areas for outdoor recreation, natural habitat, open space—including farmland and forest land—and the preservation of historic resources.

In addition, eligible entities must demonstrate:

- A commitment to long-term conservation of agricultural lands;
- A capacity to acquire, manage and enforce easements;
- Sufficient staff to monitor and enforce easements; and
- Available funds.

APPLICATION PROCESS
AND FUND ALLOCATION

The NRCS Chief allocates FRPP funds each year following Congressional budget approval. Allocations to states are based on the state FRPP plans and ability to execute agreements. FRPP funds must be obligated—through cooperative agreements (see below)—by September 30 each fiscal year.

To solicit applications, NRCS publishes a request for proposals (RFP) in the Federal Register. The RFP is also posted on the FRPP program page at: <http://www.nrcs.usda.gov/programs/frpp/>. Eligible entities submit proposals to the NRCS state conservationist by the specified date. In general, NRCS gives entities at least 45 days to complete an application.

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The NRCS state conservationist typically reviews proposals with advice from the state technical committee—a technical advisory group made up of individuals who represent natural resource sciences and occupations from state and federal agencies and the private sector. Proposals are ranked using the state FRPP plan, a land evaluation site assessment (LESA) system or other scoring system, and adherence to national priorities outlined in the RFP. State FRPP plans describe conditions within the state, address national criteria for protecting farmland and describe the state criteria. State plans are sub-mitted to the NRCS at least every three years and are required for states to receive a federal allocation.

The state conservationist determines the NRCS share awarded for a given project. The NRCS may pay up to 50 percent of the appraised fair market value of the easement. Cooperating entities may count landowner donations of up to 25 percent of the appraised fair market value of the easement toward their share of the easement acquisition cost. At a minimum, the cooperating entity must provide either 25 percent of the appraised fair market value in cash OR 50 percent of the final negotiated purchase price in cash. If the latter option is chosen, the NRCS share cannot exceed the entity's contribution.

COOPERATIVE AGREEMENTS

When a proposal from an entity is approved, NRCS executes a cooperative agreement on behalf of the Commodity Credit Corporation. This legal agreement describes the transaction, including information about the parcel, the type of interest to be acquired, the project cost, an estimate of the federal share, and responsibilities of each party.

Participating landowners agree not to convert their land to nonagricultural uses and to develop and implement a conservation plan for any highly erodible land. The conservation plan is developed based on the standards in the NRCS Field Office Technical Guide and approved by the local conservation district. Participants also agree to comply with the agency's 2 percent limit on impervious surfaces (or one acre for farms smaller than 50 acres), unless the state conservationist secured a waiver.

FRPP easements must be permanent unless prohibited by state law and be reviewed and

approved by the NRCS national office before being recorded. The easement must contain indemnification language and a contingent right, which describes the United States' interest in the easement and enables the federal government to enforce the terms of the easement if the cooperating entity fails to do so. This language also requires the participating entity to reimburse the federal government if the easement is terminated.

HISTORY

The federal governments efforts to stem farmland conversion began with the passage of the Farmland Protection Policy Act (FPPA) in 1981. The FPPA directs federal agencies to evaluate the extent to which federally funded projects lead to the conversion of agricultural land and to consider less harmful alternatives. The regulations were issued in 1994 but have failed to effectively prevent farmland conversion.

The Farms for the Future Act, adopted as part of the 1990 Farm Bill, set the precedent for federal funding by authorizing the Resources Conservation Demonstration Program. This program provided guaranteed loans and subsidized interest payments to state and local farmland protection programs. A pilot program in Vermont saved the state approximately \$10.7 million in interest payments over three years.

The Federal Agriculture Improvement and Reform Act (the 1996 Farm Bill) established a Farmland Protection Program (FPP), which superseded the Farms for the Future Act, to protect farmland from conversion to nonagricultural uses. It authorized up to \$35 million in matching funds over six years to state, tribal and local programs for the purchase of agricultural conservation easements and other interests in productive farmland.

The Farm Security and Rural Investment Act of 2002 (the 2002 Farm Bill) renamed and expanded the FPP to include non-governmental organizations as eligible entities, make farm and ranch land containing historical and archeological sites eligible, and allow landowner donations to count as part of the entity's match. It allocated \$597 million over six years for easement purchases. In addition, the final rule emphasized permanent easements unless prohibited by state law. The final rule was published on May 16, 2003.

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For additional information on farmland protection and stewardship contact the Farmland Information Center. The FIC offers a staffed answer service, online library, program monitoring, fact sheets and other educational materials.

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FUNCTIONS AND PURPOSES

The FRPP provides financial support to state, local and private farm and ranch land protection efforts. These programs protect agricultural land from residential and commercial development by acquiring agricultural conservation easements on productive farmland. Conservation easements allow farmers to free capital tied up in their land while still maintaining the right to use the land for agriculture. Income from the sale of conservation easements can be used to reinvest in agricultural operations, invest for retirement and/or reduce debt. By removing the speculative value of the land, these programs may also help keep agricultural land affordable for beginning farmers. In addition, the FRPP encourages good stewardship by requiring the implementation of conservation plans on highly erodible land.

BENEFITS

- Provides much-needed financial assistance to state, local and private farmland protection efforts.
- Encourages the development of new farm and ranch land protection programs.
- Encourages good stewardship by requiring the implementation of conservation plans on highly erodible land.
- Makes the protection of farm and ranch land from conversion to other uses a USDA Natural Resources Conservation Service issue.
- Fosters national awareness about farm and ranch land protection.

DRAWBACKS

- The NRCS will not enroll land previously protected by a permanent conservation easement OR land owned by a public entity or land conservation organization unless ownership is transferred to a private landowner before the NRCS disburses the full FRPP payment. This has complicated and sometimes precluded preacquisitions by public entities and land trusts.
- FRPP participants and immediate family members cannot serve as voting board members for the land trust or public easement acquisition program that holds their easement. This provision has barred further service from valued

board members and will prevent landowners with first-hand experience in selling easements from serving land protection organizations.

- The limit on impervious surfaces has precluded some operations with extensive agricultural structures from participating.
- The requirement that incidental land represent less than 50 percent of the proposed project has prevented some whole farms from being eligible.
- The AGI limitation has prevented individuals and corporations who own key agricultural lands from participating.

¹ Individuals or entities that have an average AGI exceeding \$2.5 million for the three tax years preceding the year the contract is approved are not eligible to receive program benefits or payments. An exemption is provided in cases where 75 percent of the AGI is derived from farming, ranching or forestry operations.