

Agricultural Conservation Easement Program (ACEP) – Agricultural Land Easements (ALE)

FY 2024 California NRCS Entity Application Packet

Information, policy, and regulation disclosed in this packet is subject to change pending the authorization of the 2023 Farm Bill and updates to the Federal Register rules and regulations. Please check the California NRCS ACEP-ALE webpage for updated information related to the 2023 Farm Bill and Federal Register rules and regulations prior to submitting a completed application package.

Entity applications for ACEP-ALE should be developed in accordance with the following format and guidance. A completed entity application includes all requested information detailed in this packet. Please submit completed applications to:

USPS, UPS, or FedEx: USDA NRCS
Attn: Easement Programs 430 G Street,
#4164
Davis, CA 95616

EMAIL:

*****PREFERRED*****

To: Elizabeth.Palmer@usda.gov

Subject: Entity Name_FY24 Parcel Application_1 of X

**Entity applications are accepted on a continuous basis.
However, applications must be received by 5:00 PM PST on the FY 2024
application batching date for an entity seeking ALE parcel funding in FY 2024.**

The following application packet collects required information for eligible entities interested in applying for easement funding under ACEP-ALE Classic, ACEP-ALE Buy-Protect-Sell (ACEP-ALE BPS), or ACEP-ALE Grasslands of Special Significance (ACEP-ALE GSS/GSS-SGI). Please answer all questions contained within and provide all supporting documentation requested to ensure the application packet is complete (unless otherwise noted). The narratives and supporting documentation may be inserted under the applicable question or provided as an exhibit or attachment to the application packet. NRCS strongly suggests that the order and format of this packet is followed to ensure consistency and equality among all applicants. The appendices to this packet should not be included in the application submission.

ACEP-ALE Applicants

NRCS requires the use of Program Agreements and Parcel Contracts for ALE projects. New parcels may only be enrolled using ACEP-ALE Parcel Contracts associated with an active, valid ACEP-ALE Program Agreement executed in FY 2019 or later.

If the entity has an existing and valid Program Agreement covering ACEP-ALE executed in FY 2019 or later, the entity is not required to submit this Entity Application. To apply for a Parcel Contract, the entity is only required to submit a Parcel Application. The Parcel Application is available on the California NRCS ACEP-ALE webpage. If there is not an existing Program Agreement, or if there is an existing Program Agreement for a program other than ACEP-ALE, the entity is required to submit an Entity Application. Any eligible entity may submit an Entity Application to enter a new ACEP-ALE Program Agreement to avail themselves of the updated items contained in the 04/2021 ALE-agreement version.

ACEP-ALE Buy-Protect-Sell Applicants

All buy-protect-sell transactions must follow the processes and meet the applicable requirements of ACEP-ALE. However, buy-protect-sell transactions are subject to their own rules and regulations. Only private or Tribal land may be eligible for these transactions; therefore, only those eligible entities that are nongovernmental organizations or Tribal entities may apply for a buy-protect-sell transaction on land they own or are in the process of purchasing. ACEP-ALE cost-share funds for an approved buy-protect-sell transaction may be provided through an ACEP-ALE Parcel Contract executed under a valid ACEP-ALE Program Agreement.

A Program Agreement must include, in the body of the agreement or attached as an exhibit to the agreement, the general terms applicable to all buy-protect-sell transactions. If the entity has an existing and current Program Agreement covering ACEP-ALE, the entity must work with the State Easement Team to update the Agreement with these general terms. The entity may also submit a new Entity Application to enter a new ACEP-ALE Program Agreement with the buy-protect-sell terms. Once a Program Agreement is established, an eligible entity is only required to submit a Parcel Application with the Buy-Protect-Sell supplement (Form CPA-41A-BPS-supplement).

All Applicants

An incomplete or ineligible applications may be marked as low priority or may not be considered for funding at all.

Eligible and complete applications received by the advertised application batching date are considered for program funding through a competitive process. It is the responsibility of the applying entity to ensure the application is complete and accurate. Identification of eligibility within the questionnaire is only to be used as a guide; NRCS determines eligibility at its discretion upon review of a complete and accurate application. If a question is answered that indicates entity ineligibility, contact NRCS before continuing with the application. If the issue cannot be rectified, the application may not be considered for program funding.

To be eligible for USDA-NRCS program funds, everyone involved in the application and listed on the deed must have records with USDA's Farm Service Agency (FSA). This includes the applicant organization, landowners, and landowner entity members. Establishing USDA records with FSA may take a significant amount of time (>120 days). Therefore, applicants are encouraged to begin this process as soon as possible. USDA records may be established at any time, except for Adjusted Gross Income (AGI) compliance. AGI compliance documents may be established as early as October 1 for the following fiscal year (e.g., AGI compliance documents for 2024 may be executed as early as October 1, 2023). All entities on the deed must be compliant per Internal Revenue Service (IRS) when obligating federal funds to the easement acquisition and at least 90 days prior to closing the easement. USDA records may be established at the local USDA-FSA Service Center. **NRCS is not responsible for USDA-FSA forms and recording of forms for eligibility requirements.** NRCS recommends that participating entities and

landowners obtain a receipt for service from FSA to demonstrate that eligibility documentation was filed.

Instructions for application packet submission are found on page 12. Please adhere to all instructions. Failure to comply may result in an ineligible application.

For more information or assistance on completing the Entity Application, please contact the California NRCS Easement Team at:

CA NRCS ALE Easement Program Manager –Elizabeth Palmer– elizabeth.palmer@usda.gov

CA NRCS Easement Program Specialist – Kaytee Todoroff – Kaytee.todoroff@usda.gov

CA NRCS State Easement Program Manager – Dean Kwasny – Dean.Kwasny@usda.gov.

Thank you for your interest in applying for NRCS conservation easement programs!

Table of Contents

| | |
|--|----|
| PART I – ENTITY APPLICATION CHECKLIST | 5 |
| PART II – ENTITY QUESTIONNAIRE | 6 |
| Entity Applicant Information..... | 6 |
| Basic Information | 6 |
| Entity Eligibility Requirements | 7 |
| Entity Performance | 7 |
| Administrative Requirements | 9 |
| Certification Statement..... | 11 |
| Entity Responsibilities | 11 |
| PART III – APPLICATION SUBMISSION INSTRUCTIONS..... | 12 |
| ACEP-ALE and ACEP-ALE BPS Applicants..... | 12 |
| PART IV – APPENDICES..... | 14 |
| Appendix 1: Definitions..... | 14 |
| Appendix 2: Cost Share Match Requirements for 2018 Farm Bill Enrollments | 22 |
| Appendix 3: Description of Application Forms | 24 |

PART I – ENTITY APPLICATION CHECKLIST

Use this checklist and the following steps to guide you through the application process:

- Step 1: Review the forms and information needed to complete the application for a Program Agreement. Contact the State Easement Team with any questions regarding the application materials.
- Step 2: Complete all required forms specified for the Program Agreement. Forms may be provided provided by State Easement Staff or downloaded from: <http://bit.ly/44PZme6>
- Step 3: Provide information for all items specified.
- Step 4: Save each item as an individual, separate document. Name each electronic document following the naming convention in **red** next to each item.
- Step 5: Submit completed forms and information with completed application packet. Refer to page 12 for submission instructions.

Program Agreement Application Materials

REQUIRED FOR ALL ACEP-ALE TRANSACTIONS.

THIS INCLUDES ACEP-ALE CLASSIC, ACEP-ALE GSS, AND ACEP-ALE BUY-PROTECT-SELL TRANSACTIONS.

Submit the following forms and information once to cover a defined period. Funding is not assigned to the Program Agreement. Individual parcels are funded through separate contracts covered by the terms of the Program Agreement.

- FY 2024 CA NRCS Entity Application Packet. A complete application packet includes the following:

FORMS:

- Entity Questionnaire (pp 6-11) [**Entity Questionnaire**]
- NRCS CPA-41* date 02/2020 or later [**NRCS-CPA-41**]
- SF-1199A (required for each entity receiving payment from NRCS) [**SF-1199**]

INFORMATION:

- Evidence of eligible entity type for each applicant entity and/or co-holder (e.g., 501(c)(3)) [**Evidence of Entity Type**]
- Evidence of active Unique Entity Identifier SAM registration (UEI) for each entity applicant and/or co-holder [**Current SAM Verification**]
- State of Authority or other form denoting signature authority, including signature specimen(s) for each entity applicant and/or co-holder (e.g., articles of incorporation, LLC papers, trust documents, etc.) [**Eligible Entity Signature Authority**]
- PDF website print of current board of supervisors, if applicable [**Board of Supervisors**]

Refer to Appendix 3 for the description and purpose of each form.

*Must consider all parcel values and information covered by this entity application packet.

PART II – ENTITY QUESTIONNAIRE

All questions in this section must be answered with adequate detail and supporting documentation as required. If questions are left unanswered, the application may be considered ineligible. **[Reminder! An applicant is not required to submit an Entity Application if a Program Agreement was previously established in FY19 or later, is current (i.e., not expired), and if all entity information is up to date].**

Entity Applicant Information

Basic Information

1. Primary/Lead Entity Applicant Name [Please ensure the entity name matches the entity name in the FSA and IRS records]:

2. Primary/Lead Entity Mailing Address [Please ensure this address matches the address in the FSA records]:

3. Primary/Lead Entity Point of Contact [Name, Phone Number, Email]:

4. Primary/Lead Entity Type:

- State agency [ineligible for buy-protect-sell]
- Local government [ineligible for buy-protect-sell]
- Indian Tribe
- Non-governmental organization described in 501(c)(3) and 509(a)(1), (2), or (3) that has conservation purposes (IRS Code Section 170(h)(4)(A)(i-iv))
- Other: _____

5. Provide the following information for each entity that will be on the agreement (i.e., “entity applicants”). This includes other eligible entities, co-applicants, co-holders, and third-party rights holders that may be a party to any parcel now or in the future.

| Entity Name | Entity Type | Applicant Type | Certified Entity? | Contact Name | Phone Number | Email |
|-------------|-----------------|-----------------|-------------------|--------------|--------------|-------|
| | Choose an item. | Choose an item. | Choose an item. | | | |
| | Choose an item. | Choose an item. | Choose an item. | | | |

| | | | | | | |
|--|-----------------|-----------------|-----------------|--|--|--|
| | Choose an item. | Choose an item. | Choose an item. | | | |
|--|-----------------|-----------------|-----------------|--|--|--|

6. The primary applicant and co-applicant(s) or co-holder(s) are required to be a party to the agreement and/or be listed as a contributor to the agreement in some manner. Provide a copy of the authority under which each applicant is authorized to operate. Acceptable forms of authority may include organizational charter, statutory authority, articles of incorporation, or bylaws.

I have attached a copy of authority for the following entities to this application packet:

7. Provide the name and title of the appropriate signatory for the primary entity applicant, co-applicant, and co-holder listed for question 6. [NOTE: Signatures of third-party rights holders are not required on program documentation].

| Entity Name | Signatory Name | Signatory Title |
|-------------|----------------|-----------------|
| | | |
| | | |
| | | |

Entity Eligibility Requirements

Entity Performance

1. List all entity applicants (i.e., eligible entity, co-applicant, co-holder, and third-party rights holder) who have the authority and capability to purchase, hold, manage, and enforce agricultural conservation easements in the State of California. Briefly describe or reference this authority for each listed entity.

| Entity Name | Authority |
|-------------|-----------|
| | |
| | |
| | |

2. List all entity applicants who have an established agricultural land protection program that purchases conservation easements for the purpose of protecting agricultural use or future viability OR protecting grazing uses and related conservation values. Briefly describe and reference the program for each listed entity.

| Entity Name | Description of Program |
|-------------|------------------------|
| | |
| | |
| | |

3. Eligible entities must demonstrate their commitment to long-term protection of agricultural lands. Briefly describe how each entity applicant demonstrates their commitment to long-term protection of agricultural lands.

| Entity Name | Description of Commitment |
|-------------|---------------------------|
| | |
| | |
| | |

4. List and summarize all entity applicants who have the staff capacity, either directly or through formal agreements with other entities, dedicated to easement monitoring and stewardship.

| Entity Name | Description of Monitoring & Stewardship Ability |
|-------------|---|
| | |
| | |
| | |

5. Briefly describe easement monitoring protocols for all entity applicants responsible for monitoring easements under this agreement.

| Entity Name | Description of Monitoring Protocols |
|-------------|-------------------------------------|
| | |
| | |
| | |

6. Specify all applicants that are a current or former participant under an ACEP-ALE agreement. Briefly describe their performance under those agreements and state whether the applicant met the terms of those agreements. If not applicable, write “N/A” in the space provided.

7. Describe whether the entity applicants can meet requirements of an ACEP-ALE Program Agreement. If unable to meet requirements, an applicant is **ineligible** for the program. [See NRCS Conservation Program Manuals 528 and 529 for entity requirements. Additional entity requirements for ACEP-ALE BPS are described in NRCS National Instruction 300-308. These documents are accessible through the NRCS eDirectives webpage at <https://directives.sc.egov.usda.gov/Default.aspx>].

Administrative Requirements

8. Are all listed applicants, including co-holders and third-party rights holders, established in the Farm Service Agency’s (FSA) Service Center Information Management System (SCIMS)?

YES. If yes, are all SCIMS records up to date?

YES.

NO. Please specify and describe:

NO. Please specify and describe [NOTE: any entity without SCIMS is **ineligible** for this program]:

9. Have all listed applicants filed the applicable FSA eligibility forms? [NOTE: Each entity must work directly with their local FSA office to complete FSA eligibility records. NRCS recommends that participating entities obtain a receipt for service from FSA to demonstrate that eligibility documentation was filed].

- YES.
- NO. Please specify [NOTE: entities without proper FSA eligibility are **ineligible** for this program]:

10. Will any eligible applicants other than the main entity applicant benefit from, or receive NRCS payment, if funded? [NOTE: Each entity receiving NRCS payment must file Form SF-1199A].

- YES. Be sure to specify the percent amount of the NRCS payment that will be attributed to the entity on Form NRCS-CPA-41.
- NO. The main entity applicant listed for question #1 on page 6 will receive full payment from NRCS.

11. For the proposed agreement, list the entity responsible for each of the tasks in the table below:

| Acquisition | Enforcement | Monitoring | Funding | Third Party Rights | Other [please specify] |
|-------------|-------------|------------|---------|--------------------|------------------------|
| | | | | | |
| | | | | | |
| | | | | | |

12. Has the primary applicant provided all supporting documentation for each item listed on the Entity Application Checklist [see checklist on page 5 of this document]?

- YES, and all items are named according to the naming convention in red.
- NO [NOTE: incomplete applications may be screened as **ineligible** for this program].

Certification Statement

Entity Responsibilities

By submitting this application and if awarded an agreement, the entity applicant(s) agree to:

1. Perform necessary legal and administrative actions to ensure proper acquisition and recordation of valid agricultural land easements, including such additional actions as required for agricultural land easements acquired through an authorized buy-protect-sell transaction.
2. Procure and pay all costs related to determinations of value, due diligence, and closing.
3. Hold title to the agricultural land easement(s).
4. Meet the requirements of the Program Agreement and carry out all responsibilities specified in the agreement, including submitting all required documentation and requests for reimbursements, advances, or extensions by required deadlines.
5. Ensure that any required or agreed-to agricultural land easement plans are complete at, or prior to, closing and that these plans are updated as necessary pursuant to applicable easement deed terms (see ALE Minimum Deed Terms).
6. Provide information to the FSA for entry into SCIMS.
7. Ensure SAM UEI registration is maintained for each eligible entity and co-holder.
8. Ensure any legal entities that will be identified in the conservation easement deed as a co-holder (grantee) or as a third-party right holder (not a grantee) meet the requirements applicable to such legal entities as set-forth in the terms of the Program Agreement.
9. Conduct annual monitoring and provide the monitoring report to the CA NRCS staff by the designated annual due date.
10. Enforce the terms of the agricultural land easement. After consultation with and approval by NRCS, an eligible entity may assign another entity to manage and enforce the agricultural land easement. The entity assigned the management and enforcement responsibilities must have the appropriate expertise and capacity to carry out such responsibilities.

Primary/Lead Applicant Signature (*OneSpan e-signature or wet ink signature*)

Date

Primary/Lead Applicant Signatory Name & Title (Printed)

Primary/Lead Applicant Entity Name

PART III – APPLICATION SUBMISSION INSTRUCTIONS

ACEP-ALE applicants must submit a complete application packet to the California State Easement Team on or before the advertised application batching date. Applications received after the application batching date are ineligible for FY24 program funding and will be deferred to FY25. To be considered for FY24 funding consideration, applications must be submitted in the following manner:

Option 1 of 2, Email:

1. Download and complete the Entity Application and all applicable forms. Ensure documents are signed, dated, and in order. Do not include application appendices in application submission.
2. Download any supplemental documents. Be sure to reference the applicability of each additional document in the Entity Application.
3. Separate the completed application packet by document type (i.e., do not combine Entity Application with forms or supplemental documents). Each document must be attached to email as an independent file and named according to the naming convention in the application checklist (page 5).
4. NRCS suggests the following naming scheme for each attached document:
Entity Name_Document Name_FY24 Entity Application
(e.g., Happy Land Trust_SF-1199A_FY24 Entity Application)
5. Compose email.
 - a. Subject Title: NRCS suggests the following subject title for each composed email:
Entity Name_FY24 Entity Application_1 of X
(e.g., Happy Land Trust_FY24 Entity Application_1 of 2)
NOTE: NRCS recognizes that the application includes large file types and that an entity may need to send multiple emails when submitting a digital application. It is important for these entities to denote the total number of emails being sent and the order of each sent email in the subject line.
 - b. Email Body: In the email body, include entity name and your request that the attached application be considered to establish entity eligibility for ACEP-ALE beginning FY24. Also include a list of the attached documents so that the recipient may cross-reference the list with the received attachments to ensure all documentation is accounted for.
6. Applications must be emailed to: elizabeth.palmer@usda.gov
7. Applications must be received on or before the application batching date to be considered for FY24 programming.
8. NRCS will reply to each email to confirm receipt of the application materials.

Option 2 of 2, Mail (e.g. USPS, UPS, FedEx etc)

1. Mail to:
USDA NRCS
Attn: Easement Programs
430 G Street, #4164
Davis, CA 95616

PART IV – APPENDICES

***** DO NOT INCLUDE APPENDIX SECTIONS IN THE APPLICATION PACKET FOR SUBMISSION. APPENDIX SECTIONS ARE INCLUDED FOR APPLICANT INFORMATION ONLY. *****

Appendix 1: Definitions

Access: Legal and physical ingress and egress to the entire easement area over adjacent or contiguous lands for the exercise of any of the rights or interests under the easement for the duration of its term for the purposes of the program. Access for easement enrollments must be described in the easement deed.

AD-1026, Highly Erodible Land and Wetland Conservation Certification: A form administered by the USDA Farm Service Agency (FSA) that NRCS uses to in part determine eligibility for ACEP-ALE and other programs. All landowners, including any members of landowner entities, must be in compliance with the highly erodible land and wetland conservation provisions—on all land persons have an interest in, anywhere in the United States—in order to be eligible to receive USDA payments (including ACEP-ALE). If the form has been submitted before and there has been no change in ownership or land use, the form does not need to be resubmitted. 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.

Agricultural land: Real property is considered to be agricultural land or land in agricultural use, including land on a farm or ranch, if it is consistent with the State’s program to purchase agricultural conservation easements. If there is no State program, the definitions of a farm, ranch, or agricultural use in the State’s agricultural use tax assessment program will be used to define agricultural land. The definition must not be so broad as to lead to the degradation of the soils.

Agricultural land easement (ACEP-ALE): An easement or other interest in eligible land that is conveyed under ACEP-ALE for the purposes of protecting natural resources and the agricultural nature of the land, and of promoting agricultural viability for future generations, and permits the landowner the right to continue agricultural production and related uses subject as applicable, to an agricultural land easement plan.

Agricultural land easement plan (ALE plan): A document developed by the eligible entity that describes the activities which promote the long-term viability of the land to meet the purposes for which the easement was acquired. An agricultural land easement plan includes a description of the farm or ranch management system and the natural resource concerns on the land, describes the conservation measures and practices that may be implemented to address applicable resource concerns for which the easement was enrolled, and incorporates by reference any component plans such as a grasslands management plan, forest management plan, or HEL conservation plan as defined in this part.

Agricultural uses: Those activities defined by a State’s farm or ranch land protection program, or, where no program exists, by the State agricultural use tax assessment program.

Associated agriculture lands: An official NRCS land use from the National Planning Procedures Handbook. It is land associated with farms and ranches that are not purposefully managed for food, forage, or fiber and are typically associated with nearby production or conservation lands. This could include incidental areas, such as idle center pivot corners, odd areas, ditches and watercourses, riparian areas, field edges, seasonal and permanent wetlands, and other similar areas.

At-risk species: Any plant or animal species listed as threatened or endangered; proposed or candidate for listing under the Endangered Species Act; a species listed as threatened or endangered under State law or Tribal law on Tribal land; State or Tribal land species of conservation concern; or other plant or animal species or community, as determined by the State conservationist, with advice from the State technical committee or Tribal conservation advisory council, that has undergone, or is likely to undergo, population decline and may become imperiled without direct intervention.

Beginner farmer or rancher: A person, Indian Tribe, Tribal corporation, or legal entity who—

(i) Has not operated a farm or ranch or nonindustrial private forest land (NIPF), or who has operated a farm or ranch or NIPF for not more than 10-consecutive years. This requirement applies to all members of an entity who will materially and substantially participate in the operation of the farm or ranch or NIPF.

(ii) In the case of an individual, individually or with the immediate family, material and substantial participation requires that the individual provide substantial day-to-day labor and management of the farm or ranch consistent with the practices in the county or State where the farm is located.

(iii) In the case of a legal entity or joint operation, all members must materially and substantially participate in the operation of the farm or ranch. Material and substantial participation requires that each of the members provide some amount of the management or labor and management necessary for day-to-day activities, such that if each of the members did not provide these inputs, operation of the farm or ranch would be seriously impaired.

Building envelope: An area within which the structures on the farm or ranch are located and within which building may occur on an ACEP-ALE easement.

Buy-Protect-Sell transaction: A legal arrangement between an eligible entity and NRCS relating to land owned or being purchased by an eligible entity on a transitional basis during which an agricultural land easement will be secured on eligible private or Tribal land, and ownership of the land transferred to a qualified farmer or rancher following conditions specified by NRCS.

CCC-902, Farm Operating Plan form (902-I for individuals or 902-E for entities): A form administered by the USDA Farm Service Agency (FSA) that collects information about persons (individuals) or entities to determine eligibility for payments. The 902-E form is used for general partnerships, joint ventures, tribes, corporations, limited partnerships, LLCs, trusts, estates, etc. (i.e., entity owning farm). The 902-I form is used for individual persons. A CCC-902 form is required for participation in NRCS programs.

CCC-941, Average Adjusted Gross Income form: A form administered by the USDA Farm Service Agency (FSA) that NRCS uses to in part determine eligibility for ACEP-ALE and other programs. 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.

Co-holder: A legal entity that will be identified in the agricultural land easement deed as a grantee but is not the applicant and does not have to meet the requirements of being an eligible entity. However, a co-

holder is required to maintain an active SAM registration and must agree to and comply with the terms of the ALE agreement. A co-holder may not receive direct payment of the Federal share provided by NRCS but is considered a beneficiary of the Federal funds. All prospective co-holders must be listed on the CPA-41.

Conservation Reserve Program (CRP): The program administered by the Commodity Credit Corporation by and through the Farm Service Agency (FSA) as required by 16 U.S.C. Sections 3831–3836.

Cropland: An official NRCS land use from the National Planning Procedures Handbook. It is land used primarily for the production and harvest of annual or perennial field, forage, food, fiber, horticultural, orchard, vineyard, or energy crops.

Developed land: An official NRCS land use from the National Planning Procedures Handbook. It is land occupied by buildings and related facilities used for residences, commercial sites, public highways, airports, and open space associated with towns and cities.

Entity applicant (also, Eligible entity): An Indian Tribe, State Government, local government, or a nongovernmental organization that has a farmland or grassland protection program that purchases agricultural land easements for the purpose of protecting: (i) The agriculture use and future viability, and related conservation values, of eligible land by limiting non-agricultural uses of that land that negatively affect the agricultural uses and conservation values; or (ii) grazing uses and related conservation values by restoring or conserving eligible land. Any entity applicants must meet all the requirements of an eligible entity, must be listed as such on the CPA-41, and must accept all the terms and responsibilities of the ALE agreement.

Farm or Ranch Land of State and Local Importance: As identified on [Web Soil Survey](#) or in the Field Office Technical Guide. Land in addition to prime or unique farmland, that is of statewide or local importance for the production of food, feed, fiber, forage, biofuels, or oilseed crops. The appropriate State or local government agency determines statewide or locally important farmland with concurrence from the State conservationist. Generally, these farmlands are nearly prime farmland that economically produce high yields of crops when treated and managed in accordance with acceptable farming methods. Some may produce as high a yield as prime farmland. 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 in accordance with 7 CFR Part 657.

Farm or ranch succession plan: A general plan to address the continuation of some type of agricultural business on the enrolled land. The farm or ranch succession plan may include specific intrafamily succession agreements or business asset transfer strategies to create opportunities for new or beginning farmers or ranchers, veteran farmers or ranchers, or other historically underserved landowners.

Farmstead: An official NRCS land use from the National Planning Procedures Handbook. It is land used for facilities and supporting infrastructure where farming, forestry, animal husbandry, and ranching activities are often initiated. This may include dwellings, equipment storage, plus farm input and output storage and handling facilities. Also includes land dedicated to the facilitation and production of high-intensity animal agriculture in a containment facility where daily nutritional requirements are obtained from other lands or feed sources.

Forest land, or non-industrial private forest land: Land on which the historic and/or introduced vegetation is predominantly tree cover managed for the production of wood products or non-timber forest

products. Specifically, non-industrial private forest land is rural land, as determined by the NRCS, that has existing tree cover or is suitable for growing trees; and is owned by any nonindustrial private individual, group, association, corporation, Indian Tribe, or other private legal entity that has definitive decision-making authority over the land. Even more specifically for the purposes of ACEP-ALE, non-industrial private forest land is land that contributes to the economic viability of an offered parcel or serves as a buffer to protect such land from development and does not consist of more than two-thirds of contiguous portions of the offered area (unless a waiver is granted). If using this land cover or use category, the land is considered at least 10-percent stocked by single-stemmed woody species of any size that will be at least 13-feet tall at maturity and/or there is land-bearing evidence of natural regeneration of tree cover (cutover forest or abandoned farmland) that is not currently developed for non-forest use. 10-percent stocked, when viewed from a vertical direction, equates to an aerial canopy cover of leaves and branches of 25 percent or greater. The minimum area for classification as forest land is 1 acre, and the area must be at least 100 feet wide. It should be noted that ACEP-ALE considers land covered by trees as cropland when the trees are not native species (orange groves, fruit and nut tree orchards) or native species that are cultivated (planted in rows, fertilized, and cultivated).

Forest management plan: Site-specific plan that describes management practices that conserve, protect, and enhance the viability of the forest land. Forest management plans may include a forest stewardship plan, as specified in section 5 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. Section 2103a) or other plan approved by the State forester.

“Furthers a State or local policy” land eligibility category: The protection of the land offered for enrollment must be consistent with a State or local policy that is consistent with the purposes of ACEP-ALE and the protection of such land must further the State or local policy.

Future viability: The legal, physical, and financial conditions under which the land itself will remain capable and available for continued sustained productive agricultural or grassland uses while protecting related conservation values such as management of the agricultural land easement area consistent with an agricultural land easement plan.

Grassland: Land on which the vegetation is dominated by grasses, grass-like plants, shrubs, or forbs, including shrubland, land that contains forbs, pastureland, and rangeland, and improved pastureland and rangeland.

Grasslands of special environmental significance (GSS): Grasslands that contain little or no noxious or invasive species, as designated or defined by State or Federal law; are subject to the threat of conversion to non-grassland uses or fragmentation; and the land meet both of the following —

- Is rangeland, pastureland, shrubland, or wet meadows on which the vegetation is dominated by native grasses, grass-like plants, shrubs, or forbs, or is improved, naturalized pastureland, rangeland, or wet meadows.
- Provides, or could provide, habitat for threatened or endangered species or at-risk species, protects sensitive or declining native prairie or grassland types or grasslands buffering wetlands, or provides protection of highly sensitive natural resources as identified by the State conservationist, in consultation with the State technical committee.

Grasslands management plan: The site-specific plan that describes the grassland resources, the management system and practices that conserve, protect, or enhance the viability of the grassland, and as applicable, the habitat, species, or sensitive natural resources.

Historical and archaeological resources: Resources that meet any of the following criteria:

(i) Listed in the National Register of Historic Places (established under the National Historic Preservation Act (NHPA), 54 U.S.C. Section 300101 et seq.).

(ii) Formally determined eligible for listing in the National Register of Historic Places (by the State historic preservation officer (SHPO) or Tribal historic preservation officer (THPO) and the Keeper of the National Register in accordance with section 106 of the NHPA.

(iii) Formally listed in the State or Tribal register of historic places of the SHPO (designated under section 101(b)(1)(B) of the NHPA) or the THPO (designated under section 101(d)(1)(C) of the NHPA).

(iv) Included in the SHPO or THPO inventory with written justification as to why it meets National Register of Historic Places criteria.

HEL Conservation Plan: The document that applies to highly erodible cropland as designated by the Farm Service Agency (FSA) and describes the conservation system applicable to the highly erodible cropland and describes the decisions of the person with respect to location, land use, tillage systems, and conservation treatment measures and schedules and, where appropriate, may include conversion of highly erodible cropland to less-intensive uses. The plan can only be developed by the NRCS.

Historically underserved landowner: A beginning, limited-resource, or socially disadvantaged farmer or rancher, or veteran farmer or rancher.

Invasive species: An alien species whose introduction does or is likely to cause economic or environmental harm or harm to human health.

Land Eligibility Determination: A determination made by NRCS after review of the application package, an onsite review, and interview with the landowner(s), concluding whether the offered easement area and its attributes meet the established land eligibility criteria applicable to the application. Determinations are made after application submission but before funding selection. Review includes an Environmental Database Records Search paid for by NRCS, which may also occur post-obligation for funded parcels.

Landowner: A person, legal entity, or Indian Tribe having legal ownership of eligible land and those who may be buying eligible land under a purchase agreement. The term landowner may include all forms of collective ownership including joint tenants and tenants-in-common, and includes heirs, successors, assigns, and anyone claiming under them. The term landowner also includes both the owners of a life estate interest in land and the owners of a remainder interest in land that is subject to a life estate, and includes both the purchasers and sellers under an active contract for deed, contract for sale, land contract or other similar "lease to own" land purchase financing arrangement. State governments and local governments are not eligible as landowners. For ACEP-ALE, nongovernmental organizations and Indian tribes that qualify as eligible entities are not eligible as landowners unless otherwise determined by NRCS following an approved buy-protect-sell transaction.

Legal entity: Means an entity created under Federal or State law that meets either of the following criteria:

- (i) Owns land or an agricultural commodity, product, or livestock
- (ii) Produces an agricultural commodity, product, or livestock

Limited-resource farmer or rancher: Means either of the following –

- (i) A person who meets both of the following criteria:
 - With direct or indirect gross farm sales not more than the current indexed value in each of the previous 2 fiscal years (adjusted for inflation using Prices Paid by Farmer Index as compiled by National Agricultural Statistical Service)
 - Has a total household income at or below the national poverty level for a family of four, or less than 50 percent of county median household income in each of the previous 2 years (to be determined annually using the U.S. Department of Commerce Data)
- (ii) A legal entity or joint operation if all individual members independently qualify under paragraph (i) above.

Noxious weed: Any plant or plant product that can directly or indirectly injure or cause damage to crops (including nursery stock or plant products), livestock, poultry, or other interests of agriculture, irrigation, navigation, the natural resources of the United States, the public health, or the environment. Noxious weeds will generally possess one or more of the characteristics of being aggressive and difficult to manage, parasitic, a carrier or host of deleterious insects or disease, and being non-native, new to, or not common to the United States or parts thereof.

Other productive soils: Includes prime farmland soils, unique farmland, or farm and ranch land of State and local importance as defined in this section.

Parcel: The defined area of land and may be a portion or all of the area of land that is owned by the landowner.

Pastureland: 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.

Pending offer: A pending offer is a written bid, contract, or option to convey a conservation easement for any of the four land eligibility categories allowable under ACEP-ALE. 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. The offer must be for the acquisition of an agricultural conservation easement in perpetuity, or for the maximum duration allowed under State law. 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.

Prime farmland: As identified on [Web Soil Survey](#) or in the Field Office Technical Guide. 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. Soils that are prime if irrigated or prime if drained may

be considered to meet this eligibility criterion if they are currently in the condition required to be prime and the management and maintenance of the necessary irrigation or drainage rights and capabilities are addressed in the conservation easement deed, baseline documentation report, and as applicable, the agricultural land easement plan.

Program: Only for the purposes of determining the necessity of a new Program Agreement entity application package, **program** means ACEP-ALE or different Regional Conservation Partnership Program (RCPP) overarching projects. Grasslands of special significance or other initiative do not count as a separate program for the purposes of a Program Agreement.

“Protects grazing uses” land eligibility category: Land that is one of the following –

(i) Grassland, rangeland, pastureland, land that contains forbs, or shrubland for which grazing is the predominant use.

(ii) Located in an area historically dominated by grassland, forbs, or shrubland, and the State conservationist, with advice from the State technical committee, determines to be compatible with grazing uses and related conservation values, and the grassland, forb, or shrubland vegetative communities historically found on the site have been restored or the eligible entity has a valid, funded plan for the restoration of such vegetative communities in place prior to closing, and either of the following apply to the enrollment of such land:

- Could or does provide habitat for animal or plant populations of significant ecological value if the land is retained in grazing uses and related conservation values
- Would address State, regional, or national conservation priorities

Purchase price: The appraised fair market value of the agricultural land easement minus the landowner donation.

Rangeland: An official NRCS land use from the National Planning Procedures Handbook. It is land on which the historic and/or introduced vegetation is predominantly grasses, grass-like plants, forbs or shrubs managed as natural ecosystem. Range land may include natural grasslands, savannas, shrublands, tundra, alpine communities, marshes and meadows.

Third-party right holder: A legal entity that will be identified in the agricultural land easement deed as having specific rights or responsibilities but is not listed as grantee. A third-party right holder is not the applicant, does not have to be party to the ALE-agreement, may not receive direct payment of the Federal share provided by NRCS, is not considered a beneficiary of Federal funds, and is not required to be registered in SAM. All prospective third-party right holders must be listed on the CPA-41.

Washington’s Recreation and Conservation Office is considered a third-party right holder for the purposes of ALE.

Unique Farmland: As identified on [Web Soil Survey](#) or in the Field Office Technical Guide. 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. Examples of such crops include citrus, tree nuts, olives, cranberries, fruits, and vegetables. Additional information on the definition of prime, unique, or other productive soil can be found in 7 CFR Parts 657 and 658.

Shrubland: Land predominantly composed of shrubs and for which grazing is the predominant use.

Socially disadvantaged farmer or rancher: A producer who is a member of a group whose members have been subjected to racial or ethnic prejudices without regard to its members' individual qualities. For a legal entity, at least 50-percent ownership in the legal entity must be held by socially disadvantaged individuals.

Veteran farmer or rancher: A producer who meets the definition in section 2501(a) of the Food, Agriculture, Conservation, and Trade Act of 1990, as amended (7 U.S.C. Section 2279(a)).

Water: An official NRCS land use from the National Planning Procedures Handbook. It is a geographic area whose dominant characteristic is open water or permanent ice or snow. May include intermingled land, including tidal-influenced coastal marsh lands.

Appendix 2: Cost Share Match Requirements for 2018 Farm Bill Enrollments

General Information

There are two types of enrollments available under the ACEP-ALE: General and Grasslands of Special Significance (GSS). Each enrollment type has specific requirements for cost-share and matching funds. These requirements are based on the fair market value (FMV) of the easement as determined by an appraisal or other means of easement valuation and as accepted by the NRCS. The determination of FMV cannot not include any amounts for other costs for acquisition or management. The eligible entity must provide information on the estimated FMV and all contribution sources at the time of application. If funded and before closing, the eligible entity will provide a final listing of sources on the applicable “Statement to Confirm Matching Funds” form and will provide supporting invoices or receipts as applicable.

Federal v. Non-Federal Share

Table 1. Federal and Non-Federal Share Requirements.

| | Federal Share (max. % of FMV) | Non-Federal Share (min. % of FMV) |
|------------------------|-------------------------------|-----------------------------------|
| General ALE Enrollment | 50% | 50% |
| ALE-GSS Enrollment | 75% | 25%† |

†Estimation. The Non-Federal Share for GSS must be at least equivalent to the Federal share or satisfy the remainder of the easement FMV, whichever is less.

To be eligible for up to 75% Federal Share, the parcel must meet the established qualifications of GSS and the GSS option must be selected on the CPA-41A form. The GSS definition and other criteria can be found in the applicable section of the GSS Parcel Application Parcel Questionnaire. There are no longer cash contribution waivers available for GSS or any other enrollment.

Non-Federal Share Requirements

The Non-Federal Share may be comprised of various sources. The allowable sources are listed below and should be considered in the order they appear (#1-4). No other sources will be considered.

1. The eligible entity’s own cash resources for payment of easement compensation to the landowner. The resources may be in-hand or committed. If these resources are less than 10% of the easement FMV, the eligible entity must attach to the CPA-41A specific evidence of funding or capacity available to manage, monitor, and enforce the easement.
2. A landowner donation toward the easement value in the form of a charitable donation or qualified conservation contribution (section 170(h) of IRC of 1986). No other form of donation is acceptable. *ACEP-ALE does not require the landowner to donate any part of the easement FMV.*
3. The procured costs paid by the eligible entity from sources other than the landowner (directly or indirectly) to a third-party for *ONLY* the items listed below. If not listed here, the procured cost is not acceptable for the Non-Federal Share. If the cost of any one of the items listed below is counted toward the Non-Federal Share, the report or service *must* meet the standards or requirement as identified in the ALE agreement or other NRCS-provided documentation.
 - a. Appraisal

- b. Legal boundary survey of the easement area
 - c. Full phase-I environmental site assessment that meets the requirement of 40 CFR Part 312
 - d. Title commitment or report
 - e. Title insurance
 - f. Closing costs
4. Up to 2% of the easement FMV toward stewardship and monitoring costs contributed by the eligible entity from sources other than the landowner (directly or indirectly). Any amount over 2% will not be counted.

Examples

Example 1: Determination of the Amount of the Federal Share for General-ALE Enrollments:

| FMV of ALE | \$500,000 | \$500,000 | \$500,000 | \$500,000 |
|--|------------------|------------------|------------------|------------------|
| Eligible Entity Cash (item (2)(i)) | 100,000 | 20,000 | 70,000 | 200,000 |
| Landowner Donation (item (2)(ii)) | 150,000 | 200,000 | 100,000 | 200,000 |
| Procured Costs Paid by Entity (item (2)(iii)) | Not included | 30,000 | 20,000 | Not Included |
| Stewardship/Monitoring Costs (item (2)(iv)) | Not included | Not Included | 10,000 | Not Included |
| Total Non-Federal Share | 250,000 | 250,000 | 200,000 | 400,000 |
| Total Federal Share for General ALE | 250,000 | 250,000 | 200,000 | 100,000 |
| Eligible Entity Cash Contribution as Percentage of FMV | 20% | 4%* | 14% | 40% |

Example 2: Determination of the Amount of the Federal Share for ALE-GSS Enrollments:

| FMV of ALE | \$500,000 | \$500,000 | \$500,000 | \$500,000 |
|--|------------------|------------------|------------------|------------------|
| Eligible Entity Cash (item (2)(i)) | 62,500 | 25,000 | 120,000 | 150,000 |
| Landowner Donation (item (2)(ii)) | 62,500 | 70,000 | 100,000 | 150,000 |
| Procured Costs Paid by Entity (item (2)(iii)) | Not included | 30,000 | 20,000 | Not Included |
| Stewardship/Monitoring Costs (item (2)(iv)) | Not included | Not Included | 10,000 | Not Included |
| Total Non-Federal Share | 125,000 | 125,000 | 250,000 | 300,000 |
| Total Federal Share for ALE-GSS | 375,000 | 375,000 | 250,000 | 200,000 |
| Eligible Entity Cash Contribution as Percentage of FMV | 13% | 5%* | 24% | 40% |

*See requirements in #1 of the "Non-Federal Share Requirements" section for cash contributions less than 10%.

Appendix 3: Description of Application Forms

The following forms are required (**unless otherwise noted**) to establish entity eligibility for ACEP-ALE. Forms are listed in alphabetical order. All forms are accessible on the California State NRCS ACEP-ALE webpage: <https://bit.ly/44PZme6>

NRCS CPA-41 “Entity Application for an Agricultural Land Easement (ALE) Agreement”

CPA-41 is used to determine the eligibility status of an entity interested in applying for federal financial assistance to acquire conservation easements on eligible land. This form is required for Cooperative/Grant Agreements and Program Agreements. A cooperating entity only needs to submit one CPA-41 Form, even if applying for multiple parcels. This form may be submitted at any time throughout the year. However, if an entity plans to submit a parcel application for the upcoming FY funding cycle, the entity will need to submit CPA-41 by the FY funding cycle cut-off date. An entity with an established and current Program Agreement for the program of interest does not need to complete or submit a CPA-41 form.

SF-1199A “Direct Deposit Sign-Up Form”

SF-1199A is required to identify the applicants bank routing information so that the Federal payment can be deposited directly into the entity’s account. This form is required for Cooperative/Grant Agreements and Program Agreements. All eligible entities receiving payment from NRCS for the easement transaction must complete the form. This form is not applicable to landowners, only to the entity purchasing the easement from a landowner.

- END -