

ACEP-ALE OVERVIEW FOR LANDOWNERS



PHOTO COURTESY OF USDA

WHAT IS ACEP-ALE?

The **Agricultural Conservation Easement Program (ACEP)** is a voluntary conservation program that protects agricultural land from conversion to non-farm uses and conserves and restores wetlands. **Agricultural Land Easements (ALE)** are a program enrollment option that keep working lands available for agriculture by protecting the farming uses or protecting grazing uses of grasslands and related conservation values. ACEP-ALE is administered by the Natural Resources Conservation Service (NRCS), a federal agency within the United States Department of Agriculture (USDA) working with farmers and landowners to improve and protect their soil, water, and other natural resources.

ACEP-ALE provides matching funds to eligible entity partners to purchase **agricultural land easements**. An ALE is a permanent easement that is recorded on your deed and stays in effect even if ownership changes. It contains provisions that protect agricultural use by limiting non-farm development. NRCS may contribute up to 50 percent of the fair market value of the agricultural land easement as determined by appraisals. If you are protecting grasslands of special

environmental significance, NRCS can contribute more—up to 75 percent of the fair market value of the agricultural land easement.

HOW THE PROGRAM WORKS

You will work with a partner (officially called an eligible entity) to participate in the program. The partner has to meet certain requirements to be an eligible entity.

Your partner can be a state or local government body, a non-profit organization like a land trust that protects farmland and ranchland, or an Indian tribe. Refer to "[ACEP-ALE Overview for Entities](#)" for information on who can be an eligible partner.

1. You will work with your partner to determine if you and your land meet eligibility requirements. If so, your partner will discuss the conservation deed terms and answer your questions.
2. If you and your partner are interested in moving forward, your partner will work with you to fill out the application forms and supply supporting materials.

Once the application has been submitted, NRCS staff in each state rank applications using criteria posted on the state's website.

3. If your application is chosen for funding, your partner will coordinate with NRCS and manage the acquisition process through the completion of the real estate transaction. This takes one to two years once your partner signs an agreement with NRCS, depending on your commitment to working with your partner to satisfy program requirements.
4. After the transaction is complete, the agricultural land easement will be managed by your partner. Your partner will visit with you on-site each year to make sure you are following the terms set forth in the agricultural land easement document.



PHOTO COURTESY OF ALLEN BIRNBACH

LANDOWNER ELIGIBILITY

To be eligible for funding, you must meet certain USDA criteria. Answer the questions below to determine if you could qualify. If you answered no or if you don't know the answers, that's okay. Make an appointment with your local USDA Service Center for assistance in determining your eligibility and to complete USDA eligibility forms. To find a Service Center, visit <https://offices.sc.egov.usda.gov/locator/app>

Are you an individual, legal entity, or Indian tribe that owns land or has an agreement to purchase land?

Your partner will need a copy of the property deed or current written purchase agreement.

Do you have farm records established with the USDA-Farm Service Agency (FSA)?

If you have participated in USDA programs in the past, you likely do have records that identify the parcels you own and/or farm, cropping history, and other farm information.

If you are a legal entity or considered a joint operation, have you identified all the members of the legal entity or joint operation at the FSA office?

Member names, tax identification numbers, and ownership percentage, as well as other information may be required for each member.

Do you meet the requirements for highly erodible land and wetland compliance on all the land you own and/or farm?

These provisions aim to reduce soil loss on erosion-prone lands and to protect wetlands for the multiple benefits they provide. If you are not sure about this, FSA staff will help determine this. If you are a legal entity or considered a joint operation, all members will also have to answer this question.

Do you have an average adjusted gross income (AGI) of less than \$900,000 annually for the three preceding tax years?

If you are unsure, please check your tax returns. If you are a legal entity or considered a joint operation, all members will also have to answer this question. If one member of your legal entity has an AGI exceeding the limit, there may be a reduction in the amount the federal government contributes toward the project.

LAND ELIGIBILITY

The proposed easement area (which may be your entire property or a portion) must also be eligible. Answer the questions below to determine if your land, assumed to be the easement area, could qualify. If you answered no or if you don't know the answers, that's fine. Your partner can help make that determination. If ACEP-ALE is not a good fit, your partner may also be able to direct you to an alternate program or approach for protecting your land.

Is your land privately owned or Tribal land?

Does your land meet at least one of the following criteria?

- Comprised of at least 50% prime or important soils as determined by a soils map provided by your partner or NRCS Web Soil Survey. These are NRCS recognized soils that are designated as productive for agriculture.
- Contains historical or archaeological resources.
- Protects grazing uses and related conservation values.
- Furthers a state or local government policy consistent with the purposes of the ALE program.

Your farmland protection partner can contact the state NRCS office to learn about state-specific qualifications.

Is your land made up of cropland, rangeland, pastureland, and/or shrubland for which grazing is the predominant use?

Forest land is okay too as long as it doesn't exceed two-thirds of the easement area and contributes to the economic viability of the parcel or serves as a buffer to protect the land from development.

Is your land free from other easement or deed restrictions which provide similar protection as ALE?

If you are unsure, review your property deed. If you do not have access to your deed, you can get a copy at the property records office where the land is located. Property records are often managed by the county or city clerk.

Is your land free from title issues, hazardous materials, or adverse land uses on-site or nearby?

The presence of rights of way, infrastructure development, or mineral development on your land should be identified. Not all of these conditions make land ineligible, but you should identify them early and discuss them with your partner to determine whether they will have an impact on your eligibility.

Is your land accessible from a public road? If not, do you have an insurable, unconditional, and transferable legal right of recorded access?

BENEFITS OF ACEP-ALE

The program can help you keep threatened farmland and rangeland available for agriculture. The program would compensate you for choosing to permanently protect your land from development. In addition, the program can help you:

- Improve the viability of your farm. Proceeds from the sale of agricultural conservation easements can be invested in your operation. Farmers and ranchers have used this money to construct, expand or repair agricultural buildings or structures; buy equipment for farming, processing or marketing agricultural products; or buy additional land.
- Transfer agricultural land to the next generation. Permanently protected land is usually more affordable to farmers and ranchers because the agricultural conservation easement limits future non-farm development, which may lower fair market value.
- Implement or expand sound farming practices. The program ensures that your highly erodible land is subject to a management plan. It also involves farmland protection partners to help you learn about conservation practices and gives you capital to implement them.

TAKE THE NEXT STEP

If ACEP-ALE can help you achieve your land conservation and financial goals, a next step is to find an eligible farmland protection partner. Your partner will apply to the program with you and will ultimately hold and manage an agricultural conservation easement on your land. That partner will manage the ACEP-ALE application and can help guide you through the process.

Land Trusts

Land trusts are non-profit conservation organizations that protect natural resources by acquiring or helping other entities acquire land or conservation easements. Some focus on protecting agricultural land for continued agricultural use.

Public Programs

State and local purchase of agricultural conservation easement (PACE) programs: PACE programs compensate property owners for keeping their land available for agriculture. PACE programs are administered by state or local governments.

- ➔ Find a land trust or PACE program near you using American Farmland Trust (AFT)'s farmland protection directory. American Farmland Trust is a national nonprofit organization founded in 1980 to save America's farms and ranches. <https://farmlandinfo.org/farmland-protection-directory/>
- ➔ Use Land Trust Alliance's land trust database. Land Trust Alliance is a national land conservation organization that

represents more than 1,000 member land trusts. <https://www.landtrustalliance.org/land-trusts>

The entities that can serve as partners for ACEP-ALE will all have different capacities and conservation goals for participating in the program. Make sure the partner you choose aligns with your values and goals for your property. Here are some things you can look for when choosing an entity to be your partner:

1. Mission statement related to protecting farmland
2. Members of the board of directors who have a background in agriculture
3. Types of resources they have already protected as part of their portfolio

One final criterion that makes your land eligible for this program is having a written pending offer from an eligible entity to purchase an ALE. This can be a signed option-to-purchase agreement or other type of purchasing agreement, a letter of intent to sell the easement, an offer letter from you to the eligible entity, or other similar documentation. Once you partner with an entity, they will discuss this step with you.

If you have trouble finding a partner, contact the ACEP-ALE program manager in your state, who is typically located in the state NRCS office. A directory of NRCS state offices is available at: <https://www.nrcs.usda.gov/conservation-basics/conservation-by-state>. Still having trouble? Contact AFT's Farmland Information Center.