

Workshop: ACEP-ALE Appraisal Review Process Responses to Questions from Attendees

Hosted by AFT's National Agricultural Land Network and Farmland Information Center
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1. How will NRCS make the lists of qualified appraisers available?

The idea is to have a shared website that all partners can go to. This would take a while and might not be until the end of the calendar year. In the meantime, NRCS is continuing to work on states and there may be other people to add to lists in states that already have been completed. If that happens, NRCS will make a note and provide more current lists. Partners can reach out to the appraiser inbox to ask about specific states to get insights on when that state will be available. NRCS appraisers are getting busy with appraisal reviews in the following weeks but will do their best to respond to requests for lists.

2. Can you please clarify Uniform Standards of Professional Appraisal Practice (USPAP) vs. Yellow Book? Both are accepted for ACEP-ALE, but is one preferred or easier?

The Yellow Book, the uniform appraisal standards for federal land acquisitions, is a supplemental standard. Both are accepted for ACEP-ALE, but partners may not want to use Yellow Book. Use USPAP if that's what the entity's program requires. West Virginia has some partners, including the state, which do still require Yellow Book, which has to do with how they are funded. USPAP is good—it's the base standard that all appraisers use. Yellow Book is an additional standard on top of USPAP. It requires appraisers to consider the entire ownership. NRCS appraisal specifications say the appraiser only needs to be concerned with the area of the proposed easement even if the landowner owns a much larger piece of land. The NRCS specification statement of work is a client instruction for the appraiser, which is allowed under USPAP, but it conflicts with Yellow Book. The quick answer is that USPAP is preferred and easier. Other federal or state partners may, however, require Yellow Book (REPI is a good example).

3. What is the proper verification of plats, when several sites disagree with each other that a property is one whole or two divided plats? Isn't it necessary that the property be a whole plat to become a conservation easement? I own 10 acres purchased at two separate times, divided into two 5-acre plats. Or maybe not depending on which resource shows one or two plats.

The assignment is to appraise the area to be conserved. There could be more than one plat within that area. . The evidence of ownership, and the legal description of record for the area offered for easement, need to be included in the application and provided to the appraiser. Please see the full NRCS survey requirements at 440 CPM 528.60(B) and the NRCS Appraisal Specifications and Scope of Work at 440 CPM 528, Subpart U, Exhibits. If a parcel has a conflicting tax map, as it's not uncommon for some of those to be off, the entity should look to the evidence of ownership/legal description of record for clarification. A project can have more than one parcel—the easement puts it together, putting the restrictions on everything and holding it together.

4. What is the minimum acreage for a conservation easement in Texas?

There is no minimum acreage requirement, however, there are other considerations. Small parcels may not rank as high as other applications. In addition, parcel size may affect land eligibility, including the future viability of the parcel, which is a core purpose of the program. NRCS does also emphasize agriculture in urban areas now. Entities can contact NRCS staff in their state office to learn how parcel size might impact eligibility and how ranking points related to parcel size are assigned in the state.

5. Are there any RCPP specifications for easements or does it follow the same specifications as ALE?

RCPP has its own appraisal specifications that are separate from ACEP-ALE.

6. How can entities take advantage of the new guidance that NRCS will accept appraisals dated within 12 months prior to the parcel contract? Does this require an amendment to the program agreement and/or parcel contract? What about new parcels for FY25 that will be part of an older Program Agreement?

Entities may work with their state easement specialist to modify their program agreement using optional Exhibit 4 to add the updated appraisal effective date language.

7. What happens if a certified entity closes on an easement, and later the appraisal is audited and found to be inadequate in some way?

During the quality assurance review, NRCS EPD staff procure an appraisal technical review and look at appraisals with the national appraisers. If there are flaws, NRCS will work with the entity to help correct them. The nature of the remedy will depend on the problem identified by NRCS. Even in situations where the flaw impacts the value of the easement, NRCS will work to correct the deficiency. The national appraisers can outline in detail the problems and then suggest solutions to help the entity resolve issues.

8. How much time should entities plan for appraisal reviews? Both technical reviews and national reviews?

NRCS requires non-certified entities to submit the appraisal at least 90 days before the closing. This gives NRCS a chance to conduct a first line look to make sure there are no problems with things like landowner names, evidence of ownership in the addendum, project acres, property boundaries, appraiser qualifications, and other clerical/administrative checks. If the state office identifies issues, the eligible entity will need to work with their appraiser to make the necessary corrections. If the preliminary review by state office staff looks good, they will send it off for technical review by one of the agency's ten contractors, which generally takes 30 days. For projects where the easement value is \$3 million or more, the national appraiser reviews both the appraisal report, and the technical review report. That is called a national compliance review.

NRCS does not complete reviews for standard ACEP-ALE transactions for certified entities but NRCS procures an appraisal technical review during the quality assurance review of closed easement transactions.

9. Can entities use alternate valuation approaches?

NRCS allows alternative fair market valuation methods other than USPAP or Yellow Book, but NRCS must approve the approach in writing prior to the execution of the parcel contract or through a modification to the parcel contract. The correct process would be to work with NRCS to get the fair market valuation methodology approved and then add that to the program agreement through optional Exhibit 4 to proceed with the parcel contracts for which the alternate approach is used.

10. What can entities do if the appraisal is rejected by the technical reviewer and/or the national reviewer before the project has closed? Are they entitled to see the basis for the rejection?

If a technical reviewer has completely exhausted all avenues in obtaining a minimally acceptable report under NRCS specifications then the best solution is to first reach out to the national appraisers through our teamwork coordinator at NRCS.NationalAppraisers@usda.gov. Like Matt stated at the end of the webinar, the National Appraisers do assist technical reviewers in obtaining corrections from an appraiser to avoid an entity from having to obtain a new appraisal. Once every effort is exhausted to obtain an acceptable report under the NRCS specifications the only next solution is to order a new appraisal by a more reputable firm.

11. What is the process for addressing appreciation or depreciation in land values during the space of a project? Can someone submit an updated appraisal if they feel that the value has changed significantly?

Appreciation or depreciation in land values are typically not an issue per NRCS policy because under ALE we require the effective date of the appraisal to be no earlier than 12-months prior to the date that the individual parcel contract is executed. If for any reason an owner feels the values have changed due to market conditions you can certainly request the appraiser to complete an updated appraisal report. The national appraisers prefer the same original appraiser completes the update or new appraisal report to avoid divergent value opinions. Exceptions are made when an appraiser passes away, retires, or becomes incapacitated.

12. How can I contact the national appraisers?

Email the national appraisers at: NRCS.NationalAppraisers@usda.gov. Mark Sonderby will monitor this account for questions.