

DEPARTMENT OF AGRICULTURE**Commodity Credit Corporation****Farmland Protection Program**

AGENCY: Commodity Credit Corporation, Department of Agriculture (USDA).

ACTION: Notice of request for proposals.

SUMMARY: Section 388 of the Federal Agriculture Improvement and Reform Act of 1996 established the Farmland Protection Program (FPP). The Secretary of Agriculture delegated the authority for FPP to the Chief of the Natural Resources Conservation Service (NRCS), who is a vice president of the Commodity Credit Corporation (CCC). Section 2503 of the Farm Security and Rural Investment Act of 2002 (Public Law 107-171) amended the Food Security Act of 1985 to include FPP, providing up to \$50 million in financial and technical assistance for the purposes described in FPP. The CCC requests proposals from federally recognized Indian tribes, States, units of local government, and nongovernmental organizations to cooperate in the acquisition of conservation easements or other interests in farms and ranches. Eligible land includes farm and ranch land that has prime, unique, or other productive soil, or that contains historical or archaeological resources. These lands must also be subject to a pending offer from eligible entities for the purpose of protecting topsoil by limiting conversion of that land to nonagricultural uses.

DATES: Proposals must be received in the NRCS State Office by July 15, 2002.

ADDRESSES: Written proposals should be sent to the appropriate NRCS State Conservationist, Natural Resources Conservation Service, USDA. The telephone numbers and addresses of the NRCS State Conservationists are in the appendix of this notice.

FOR FURTHER INFORMATION CONTACT: Douglas J. Lawrence, NRCS; phone: (202) 720-1510; fax: (202) 720-0745; or e-mail: doug.lawrence@usda.gov; Subject: FPP or consult the NRCS Web site at: <http://www.nrcs.usda.gov/programs/farmland/2002/PubNotc.html>.

SUPPLEMENTARY INFORMATION:**Background**

Urban sprawl continues to threaten the Nation's farmland. Social and economic changes over the past three decades have influenced the rate at which land is converted to non-agricultural uses. Population growth, demographic changes, preferences for larger lots, expansion of transportation systems, and economic prosperity have

contributed to increases in agricultural land conversion rates.

The amount of farmland lost to development is not the only significant concern. Another cause for concern is the quality and pattern of farmland being converted. In most States, prime farmland is being converted at two to four times the rate of other, less-productive agricultural land.

There continues to be an important national interest in the protection of farmland. Land use devoted to agriculture provides an important contribution to environmental quality, protection of the Nation's historical and archaeological resources, and scenic beauty.

Availability of Funding

Effective on the publication date of this notice, the CCC announces the availability of up to \$50 million for FPP, until September 30, 2002. The CCC, acting through the applicable NRCS State Conservationist, must receive proposals for participation within 45 days of the date of this notice. State, tribal, and local government entities and nongovernmental organizations may apply.

Selection will be based on the criteria established in this notice and additional criteria developed by the applicable State Conservationist. Selected eligible entities may receive no more than 50 percent of the appraised fair market value for each conservation easement from FPP. A landowner donation of up to 25 percent of the appraised fair market value of the conservation easement or other interest in land may be considered part of the entity's matching offer. Where a landowner's donation is considered to be part of an entity's matching offer, the entity is required to match the landowner's donation with 25 percent of the appraised fair market value of the easement or 50 percent of the purchase price. Pending offers by an eligible entity must be for acquiring an easement for perpetuity except where State law prohibits a permanent easement.

Definitions

For the purposes of this notice, the following definitions apply:

Chief means the Chief of NRCS, USDA.

Conservation plan means the document that—

- Applies to highly erodible cropland;
- 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

- Is approved by the local soil conservation district in consultation with the local communities established under section 8 (b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) and the Natural Resources Conservation Service (NRCS) for purposes of compliance with 7 CFR Part 12.

Eligible entities means federally recognized Indian tribes, States, units of local government, and nongovernmental organizations that have pending offers for acquiring conservation easements for the purpose of protecting agricultural use.

Eligible land is land on a farm or ranch that has prime, unique, statewide, or locally important soil, or contains historical or archaeological resources, and is subject to a pending offer by an eligible entity. Eligible land includes cropland, rangeland, grassland, pastureland, and incidental forest land that is an incidental part of an agricultural operation. Other incidental land that would not otherwise be eligible, but when considered as part of a pending offer, may be considered eligible if inclusion of such land would significantly augment protection of the associated eligible farmland.

Fair market value of the conservation easement is ascertained through standard real property appraisal methods. Fair market value is the amount in cash, for which in all probability the easement or other interest in land would have sold on the effective date of the appraisal, after a reasonable exposure of time on the open competitive market, from a willing and reasonably knowledgeable seller to a willing and reasonably knowledgeable buyer, with neither acting under any compulsion to buy or sell, giving due consideration to all available economic uses of the property at the time of the appraisal.

Farmland that is of statewide or local importance is land used to produce food, feed, fiber, forage, or oilseed crops. The appropriate State or local government agency determines statewide or locally important farmland with concurrence from the Secretary.

Field Office Technical Guide (FOTG) contains the official NRCS guidelines, criteria, and standards for planning and applying conservation treatments and conservation management systems. The FOTG contains detailed information on the conservation of soil, water, air, plant, and animal resources applicable to the local area for which it is prepared.

Historic and archaeological resources are—

- Listed in the National Register of Historic Places established under the National Historic Preservation Act (NHPA), 16 U.S.C. 470, *et seq.*, or
- 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, or

- Formally listed in the State or Tribal Register of Historic Places of the SHPO that is designated under Section 101 (b)(1)(B) of the NHPA or the THPO that is designated under Section 101(d)(1)(C) of the NHPA.

Land Evaluation and Site Assessment (LESA) is the Federal land evaluation site assessment system used to rank land. The ranking is based on soil potential for agriculture, as well as social and economic factors, such as location, access to market, and adjacent land use.

Nongovernmental organization is any organization that—

- is organized for, and at all times since the formation of the organization, has been operated principally for one or more of the conservation purposes specified in clause (i), (ii), (iii), or (iv) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;

- is an organization described in section 501(c)(3) of that Code that is exempt from taxation under 501(a) of that Code;

- is described in section 509(a)(2) of that Code; or

- is described in section 509(a)(3) of that Code and is controlled by an organization described in section 509(a)(2) of that Code.

Pending offer is a written bid, contract, commitment, or option extended to a landowner by one or more eligible entities to acquire a conservation easement or other interest in land for the purpose of protecting topsoil by limiting nonagricultural uses of the land.

Prime farmland is 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 the Secretary.

State conservationist means the NRCS employee authorized to direct and supervise NRCS activities in a State, the Caribbean Area, (Puerto Rico and the Virgin Islands) or the Pacific Basin Area (Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands).

Unique farmland is land other than prime farmland that is used for the production of specific high-value food and fiber crops, as determined by the Secretary. It has the 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 according to 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 section 1540(c)(1) of the Farmland Protection Policy Act (Public Law 97-98) (7 U.S.C. 4201, *et seq.*) and 7 CFR part 658.

Overview of the Farmland Protection Program

The CCC will accept proposals submitted to the NRCS State Offices from eligible entities, including federally recognized Indian tribes, States, units of local government, and nongovernmental organizations that have pending offers for acquiring conservation easements for the purposes of protecting topsoil by limiting nonagricultural use of the land and/or protecting historical and archaeological sites on farm and ranch lands. Reference information regarding the FPP can be found in the "Catalog of Federal Domestic Assistance #10.913."

All proposals must be submitted to the appropriate NRCS State Conservationist within 45 days of the date of this notice. The NRCS State Conservationist may consult with the State Technical Committee (established pursuant to 16 U.S.C. 3861) to evaluate the merits of the proposals.

The NRCS State Conservationist will review and evaluate the proposals based on State, Tribal or local government or nongovernmental organization eligibility, land eligibility, and the extent to which the proposal adheres to the objectives outlined in the NRCS State FPP plan. Proposals must provide adequate proof of a pending offer for the subject land. Adequate proof includes a written bid, contract, commitment, or option extended to a landowner. Pending offers based upon appraisals completed and signed by State-certified or licensed appraisers shall receive higher priority for FPP funding. Proposals submitted directly to the NRCS National Office will not be accepted and will be returned to the submitting entity.

Development of the State Farmland Protection Program Plan

Funding awards to participants will be based on National and State criteria. FPP will be available in those States for which an NRCS State Office submits a State FPP Plan to the NRCS National Office. At a minimum, the State FPP Plan contains the following:

- Acreage of prime and important farmland estimated to be protected;
- Acreage of prime and important farmland lost;

- Number or acreage of historic and archaeological sites estimated to be protected on farm or ranch lands;

- Degree of development pressure;
- Degree of leveraging guaranteed by cooperating entities;

- History of cooperating entities' commitments to conservation planning and implementing conservation practices;"

- Participating entities' histories of acquiring, managing, holding, and enforcing easements (including annual farmland protection expenditures, accomplishments, and staff);

- Amount of FPP funding requested; and

- Participating entities' estimated unfunded backlog of conservation easements on prime, unique, and important farmland acres.

At the State level, each State Conservationist will develop a State FPP Plan to submit to NRCS National Office every three years. State allocations may be adjusted every three years based on new State FPP plan submissions. This State FPP Plan may be completed in consultation with the State Technical Committee. The State FPP Plan shall include ranking considerations used by the State, including the above-mentioned National criteria and other State ranking criteria. The following examples of State ranking criteria may be used to evaluate and rank specific parcels, including but not limited to proximity to protected clusters, viability of the agricultural operations, parcel size, type of land use, maximum cost expended per acre, degree of leveraging by the entity. State ranking criteria will be developed on a State-by-State basis and will be available to interested participating entities before proposal submission. Interested entities should contact the State Conservationist located in their State for a complete listing of applicable National and State ranking criteria.

The National Office will allocate funds to States based on the information provided in the State FPP Plan. Within 30 days after the Request for Proposals has closed, the NRCS State

Conservationist may make awards to eligible entities based on the funds provided. Once selected, eligible entities must work with the appropriate NRCS State Conservationist to finalize and sign cooperative agreements, incorporating all FPP requirements.

The conveyance document (*e.g.*, conservation easement deed) used by the eligible entity must be reviewed and approved by the USDA Office of General Counsel before being recorded. Since title to the easement is held by an entity other than the United States, the conveyance document must contain a clause that all rights conveyed by the landowner under the document will become vested in the United States should the federally recognized Indian tribe, State, local government entity, or nongovernmental organization (*i.e.*, the participant(s)) abandon, fail to enforce, or attempt to terminate the conservation easement). As a condition for participation, all land in the easement shall be included in a conservation plan in accordance with 7 CFR part 12. The conservation plan shall be developed according to the NRCS Field Office Technical Guide and shall be implemented in a timely manner, as determined by the State Conservationist, following FPP enrollment.

Organization and Land Eligibility Selection Criteria

To be eligible, a federally recognized Indian tribe, State, unit of local government, or nongovernmental organization must have a farmland protection program that purchases agricultural conservation easements for the purpose of protecting prime, unique, or other productive soil or historical and archaeological resources by limiting conversion of farm or ranch land to nonagricultural uses.

Criteria for Proposal Evaluation

Proposals must contain the information set forth below in order to receive consideration for assistance:

1. Organization and programs: Eligible entities must describe their farmland protection program and their record of acquiring and holding permanent agricultural land protection easements or other interests. Information provided in the proposal should:

(a) Demonstrate a commitment to long-term conservation of agricultural lands through the use of voluntary easements or other interests in land that protect farmland from conversion to nonagricultural uses;

(b) Demonstrate the capability to acquire, manage, and enforce easements and other interests in land;

(c) Demonstrate the number and ability of staff that will be dedicated to monitoring easement stewardship;

(d) Demonstrate the availability of funds equal to at least 50 percent of the purchase of the conservation easement, not to exceed the appraised fair market value of the conservation easement, or when accompanied by a landowner donation, funds equal to or more than 25 percent of the appraised fair market value of the conservation easement; and

(e) Include pending offer(s). A pending offer is a written bid, contract, commitment, or option extended to a landowner by an eligible entity to acquire a conservation easement or other interest in land that limits nonagricultural uses of the land before the legal title to these rights has been conveyed. The primary purpose of the pending offers must be for protecting topsoil by limiting conversion to nonagricultural uses. Pending offers having appraisals completed and signed by State-certified appraisers will receive higher funding priority by the NRCS State Conservationist. Appraisals completed and signed by a State-certified or licensed appraiser must contain a disclosure statement by the appraiser. The disclosure statement should include as a minimum the following: The appraiser accepts full responsibility for the appraisal, the enclosed statements are true and unbiased, the value of the land is limited by stated assumptions only, the appraiser has no interest in the land, and the appraisal conforms to the Uniform Standards of Professional Appraisal Practice, the Uniform Appraisal Standards for Federal Land Acquisitions, or another land valuation system used by the State, where the land transaction will occur, in purchasing real estate.

2. Lands to be acquired: The proposal must describe the lands to be acquired with assistance from FPP. Specifically, the proposal must include the following:

(a) A map showing the proposed protected area(s);

(b) The amount and source of funds currently available for each easement (or other interest) to be acquired;

(c) The criteria used to set the acquisition priorities; and

(d) A detailed description of the land parcel(s), including—

(i) The priority of the offer;

(ii) The name(s) of the landowner(s);

(iii) The address and location map(s) of the parcel(s);

(iv) The size of the parcel, in acres;

(v) The acres of the prime, unique, or statewide and locally important soil in the parcels;

(vi) The number or acreage of historical or archaeological sites, if any, proposed to be protected, and a brief description of the sites' significance;

(vii) A map showing the location of other protected parcels in relation to the land parcels proposed to be protected;

(viii) Estimated cost of the easement(s): The consideration to be paid to any landowners for the conveyance of any lands or interests in lands cannot be more than the fair market value of the land or interests conveyed, as determined by an appraiser licensed in the State.

(ix) An example of the cooperating entity's proposed easement deed used to prevent agricultural land conversion;

(x) Indication of the accessibility to markets;

(xi) Indication of an existing agricultural infrastructure, on- and off-farm, and other support system(s);

(xii) Statement regarding the level of threat from urban development;

(xiii) Other factors from an evaluation and assessment system used to set priorities. If the eligible entity used the LESA system or a similar land evaluation system as its tool, include the score(s) for the land parcels slated for acquisition;

(xiv) Other partners involved in acquisition of the easement and their estimated financial contribution; and

(xv) Other information that may be relevant as determined by the NRCS State Conservationist.

In submitting proposals, entities should indicate on the cover of the proposal whether they are a State, Tribal, local agency or a nongovernmental organization.

Ranking Considerations

When the NRCS State Office has assessed organization eligibility and the merits of each proposal, the NRCS State Conservationist will determine whether the farmland is eligible for financial assistance from FPP. NRCS will use the National and State criteria and/or a LESA system or similar system to evaluate the land and rank the parcels. NRCS will only consider enrolling eligible land in the program that is of sufficient size and has boundaries that allow for efficient management of the area. The land must have access to markets for its products and an infrastructure appropriate for agricultural production. NRCS will not enroll land in FPP that is owned in fee title by an agency of the United States, or land that is already subject to an easement or deed restriction that limits the conversion of the land to nonagricultural use. NRCS will not enroll otherwise eligible lands if NRCS

determines that the protection provided by the FPP would not be effective because of onsite or offsite conditions. For example, a proposal may nominate an agricultural parcel surrounded by a developed area or a parcel may contain hazardous materials. In addition, NRCS may learn that the local government's long-term plan or zoning regulations earmark the parcel for future development. The parcel's isolation from other farms and the local government's position, expressed in either its land use plan or zoning, may cause NRCS to determine that the use of FPP funds is not appropriate.

NRCS will place a priority on acquiring easements or other interests in lands that provide permanent protection from conversion to nonagricultural use. NRCS will place a higher priority on easements acquired by entities that have extensive experience in managing and enforcing easements. NRCS may place a higher priority on lands and locations that help create a large tract of protected area for viable agricultural production and that are under increasing urban development pressure. NRCS may place a higher priority on lands and locations that correlate with the efforts of Federal, State, Tribal, local, or nongovernmental organizations' efforts that have complementary farmland protection objectives (e.g., open space or watershed and wildlife habitat protection). NRCS may place a higher priority on lands that provide special social, economic, and environmental benefits to the region. A higher priority may be given to certain geographic regions where the enrollment of particular lands may help achieve National, State, and regional goals and objectives, or enhance existing government or private conservation projects.

Cooperative Agreements

The CCC, through NRCS, will use a cooperative agreement with a selected eligible entity to document participation in FPP. The cooperative agreement will address, among other subjects—

- (1) The interests in land to be acquired, including the form of the easements to be used and terms and conditions;
- (2) the management and enforcement of the rights acquired;
- (3) the role of NRCS;
- (4) the responsibilities of the easement manager on lands acquired with FPP assistance; and
- (5) other requirements deemed necessary by the CCC to protect the interests of the United States.

The cooperative agreement will also include an attachment listing the pending offers accepted in FPP,

landowners' names, addresses, location map(s), and other relevant information. An example of a cooperative agreement may be obtained from the NRCS State Conservationist.

Signed in Washington, DC, on May 21, 2002.

Bruce I. Knight,

Vice President, Commodity Credit Corporation; and Chief, Natural Resources Conservation Service.

Appendix

NRCS State Conservationists

Alabama: Robert N. Jones, 3381 Skyway Drive, Post Office Box 311, Auburn, AL 36830; phone: (334) 887-4500; fax: (334) 887-4552; robert.jones@al.usda.gov.

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Virginia: M. Denise Doetzer, Culpeper Building, Suite 209, 1606 Santa Rosa Road, Richmond, VA 23229-5014; phone: (804) 287-1691; fax: (804) 287-1737; denise.doetzer@va.usda.gov.

Washington: Raymond L. "Gus" Hughbanks, Rock Pointe Tower II, Suite 450, W. 316 Boone Avenue, Spokane, WA 99201-2348; phone: (509) 323-2900; fax: (509) 323-2909; raymond.hughbanks@wa.usda.gov.

West Virginia: Lillian Woods, Room 301, 75 High Street, Morgantown, WV 26505; phone: (304) 284-7540; fax: (304) 284-4839; lillian.woods@wv.usda.gov.

Wisconsin: Patricia S. Leavenworth, Suite 200, 6515 Watts Road, Madison, WI 53719-2726; phone: (608) 276-8732; fax: (608) 276-5890; pat.leavenworth@wi.usda.gov.

Wyoming: Lincoln E. Burton, Federal Building, Room 3124, 100 East B Street, Casper, WY 82601-1911; phone: (307) 261-6453; fax: (307) 261-6490; ed.burton@wy.usda.gov.

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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 02-002N]

International Standard-Setting Activities

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice informs the public of the sanitary and phytosanitary standard-setting activities of the Codex Alimentarius Commission (Codex), in accordance with section 491 of the Trade Agreements Act of 1979, as amended, and the Uruguay Round Agreements Act, Pub. L. 103-465, 108 Stat. 4809. It also provides a list of other standard-setting activities of Codex, including commodity standards, guidelines, codes of practice, and revised texts. This notice, which covers the time periods from June 1, 2001, to May 31, 2002, and June 1, 2002, to May 31, 2003, seeks comments on standards currently under consideration and recommendations for new standards.

ADDRESSES: Submit any written comments to: FSIS Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, Washington, DC 20250-3700. Please state that your comments refer to Codex and, if your comments relate to specific Codex committees, please identify those committees in your comments and submit a copy of your comments to the delegate from that particular committee. All comments submitted will be available for public inspection in the Docket Clerk's Office between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: F. Edward Scarbrough, Ph.D., United

States Manager for Codex, U.S. Department of Agriculture, Office of the Undersecretary for Food Safety, Room 4861, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250-3700; (202) 205-7760. For information pertaining to particular committees, the delegate of that committee may be contacted. (A complete list of U.S. delegates and alternate delegates can be found in Attachment 2 to this notice.) Documents pertaining to Codex are accessible via the World Wide Web at the following address: <http://www.codexalimentarius.net>. The U.S. Codex Office also maintains a web site at <http://www.fsis.usda.gov/OA/Codex/index.htm>.

SUPPLEMENTARY INFORMATION:

Background

The World Trade Organization (WTO) was established on January 1, 1995, as the common international institutional framework for the conduct of trade relations among its members in matters related to the Uruguay Round Trade Agreements. The WTO is the successor organization to the General Agreement on Tariffs and Trade (GATT). U.S. membership in the WTO was approved and the Uruguay Round Agreements Act was signed into law by the President on December 8, 1994. The Uruguay Round Agreements became effective, with respect to the United States, on January 1, 1995. Pursuant to section 491 of the Trade Agreements Act of 1979, as amended, the President is required to designate an agency to be responsible for informing the public of the sanitary and phytosanitary (SPS) standard-setting activities of each international standard-setting organization, Codex, International Office of Epizootics, and the International Plant Protection Convention. The President, pursuant to Proclamation No. 6780 of March 23, 1995 (60 FR 15845), designated the U.S. Department of Agriculture as the agency responsible for informing the public of sanitary and phytosanitary standard-setting activities of each international standard-setting organization. The Secretary of Agriculture has delegated to the Administrator, Food Safety and Inspection Service (FSIS), the responsibility to inform the public of the SPS standard-setting activities of Codex. The FSIS Administrator has, in turn, assigned the responsibility for informing the public of the SPS standard-setting activities of Codex to the U.S. Codex Office, FSIS.

Codex was created in 1962 by two U.N. organizations, the Food and Agriculture Organization (FAO) and the