

United States Department of Agriculture



Natural Resources Conservation Service
P.O. Box 2890
Washington, D C 20013

**SUBJECT: EMERGENCY WATERSHED PROTECTION PROGRAM
FLOODPLAIN EASEMENT (EWPP-FPE) ALLOCATIONS**

**TO: State Conservationists File Code: 390
Directors, Caribbean and Pacific Islands Areas**

The American Recovery and Re-investment Act (ARRA) authorized \$145 million for Emergency Wetland Protection Program (EWPP) floodplain easements. The purpose of this funding is to acquire new floodplain easements on eligible lands and to restore their floodplain functions and values to natural conditions to the greatest extent practicable. It is critical that these lands be acquired and restored in an accelerated manner in order to address critical resource concerns and to help stimulate the economy. The Agency's goal is to have these funds expended within 12 to 18 months. All funds must be obligated by September 30, 2010.

You are expected to utilize the business process identified in the EWPP Manual, Circular 2 in implementing this program.

Funding Applications

Applications will be accepted during a National three-week sign-up. This sign-up will begin on March 9 and will conclude on the close of business on March 27. You will collect all applications (AD-1153) received in your state. All applications will be entered in the Interim Easements Database prior to April 3, 2009. Each application is to be ranked utilizing the national ranking criteria, to which you may add additional state-specific criteria.

States will include the following national ranking criteria in the ranking worksheet (attached is an example ranking worksheet):

- Offered land will benefit flood damage reduction.
- Offered land will link or extend other floodplain or riparian conservation easements or protected areas.
- Offered land provides benefits to Federal or State listed threatened and endangered species.
- Breach Inundation Areas are present on the offered land.
- Landowner is willing to take less for the easement or another source is available to reduce the government's cost of restoration or easement acquisition.

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An Equal Opportunity Provider and Employer



- A preliminary title search shows that there are not any issues with the title that could potentially delay or prevent closing on the easement.
- A hazardous substance records search indicates that there are no or limited potential hazardous substance issues existing that may prevent or delay closing on the easement.
- An environmental evaluation and cultural resources review indicates there is no or limited potential environmental or cultural resource issues that would delay restoration.
- Conservation partners are ready, willing and able to assist with financial and/or technical assistance to expedite the acquisition and restoration of the easement.
- Valid restoration plan with necessary engineering designs and surveys is in place that will enable restoration to occur as soon after closing on the easement as possible.

Upon completion of the sign-up, NHQ will extract application information from the Interim Easement Database to help determine and recommend allocations to each State. Thus, it is critical this information be entered into the database. NHQ will verify the database information with you.

Determining Easement Value

The same Market Analysis and Geographic Area Rate Cap values that have been established for the Wetlands Reserve Program for FY2009 will be used to determine the compensation value for floodplain easements. Guidance for establishing these values was distributed via National Bulletin 300-9-4, dated November 3, 2008. No appraisals will be used for determining the easement value.

All offers for acquiring the easement will be made through the Option Agreement to Purchase (AD-1157) prior to May 4, 2009.

Easement Closing

All easements will be recorded on the NRCS-LIP-20, Emergency Watershed Protection Program Floodplain Warranty Easement deed dated (August 2005), and closed prior to December 3, 2009.

All new floodplain easements will be formally accepted, in writing, by an NRCS employee with the appropriate delegation of authority and will be recorded as part of the warranty easement deed utilizing an OGC-approved acceptance document. Because of variation of Uniform Conservation Easement Act (UCEA) requirements among States, this acceptance document will be developed in coordination with the appropriate Regional OGC Attorney.

Easement Restoration

Restoration funds will be obligated upon the completion of a EWPP Floodplain Easement Restoration Plan of Operations (FPERPO), including all necessary field surveys and engineering designs. The obligating document may be a Long Term Agreement (AD-1154), Federal Contract, Cooperative/Contribution Agreement, or other appropriate procurement document. Restoration will be fully completed prior to December 30, 2010.

Operational Efficiencies

If you receive an allocation of the EWPP-FPE funds, you will submit an action plan to your Regional Assistant Chief (RAC), by March 23, 2009, to ensure that the Agency's goals, objectives and timelines are achieved within the programmatic guidelines.

Where your staff expertise is limited or not available, you are encouraged to secure these services from other states, partners or other sources. You should also consider utilizing specialized multi-state teams or regional teams consisting of:

- Realty specialists
- Procurement specialists
- Program specialists
- Planning specialists
- Engineering and design experts

You will need to communicate with your Regional OGC attorney to coordinate timely assistance in obtaining title opinions and their assistance in completing the acquisition of easements.

Technical Service Providers

Because the anticipated workload in some locations and the need to expend these funds as soon as possible, it is critical that we outsource to either a private sector source or a government agency that has the capacity to perform services that you do not the capacity to perform. You should work with your conservation partners at the local level to identify and secure these services. In addition, you should identify and utilize qualified non-traditional groups and individuals to assist in addressing this workload burden. It is anticipated the normal allocation for EWPP-FPE technical assistance will be adjusted upward to facilitate the accelerated pace of implementation and enable greater capacity.

NHQ is examining several opportunities to work with our partners at the national and regional levels to provide products and help us get this job done. NHQ is developing Blanket Purchase Agreements and Indefinite Quantity and Indefinite Delivery Contracts to assist in easement acquisition and restoration activities.

We have a significant challenge ahead of us in implementing our EWPP-FPE responsibilities over the next two years. It is only with continued hard work, innovative thinking, and adaptation to change that this can be accomplished. Along with the acceleration of our work, it is critical that we do not lose sight of our fiscal, procurement, statutory and regulatory authorities and ensure that our restoration activities are of high technical quality.

Please direct all questions concerning EWPP Manual, Circular 2 and the implementation of EWPP-FPE via email to both Tony Puga (tony.puga@wdc.usda.gov) and Ross Lahren (ross.lahren@wdc.usda.gov).



THOMAS W. CHRISTENSEN
Deputy Chief for Programs

Attachment – Ranking worksheet

cc:

Dave White, Acting Chief, NRCS, Washington, D.C.

Dana York, Associated Chief, NRCS, Washington, D.C.

Bruce Julian, Chief of Staff, NRCS, Washington, D.C.

Diane Gelburd, Acting Regional Assistant Chief, Central, Washington, D.C.

Leonard Jordan, Acting Regional Assistant Chief, East, Washington, D.C.

Ginger Murphy, Acting Regional Assistant Chief, West, Washington, D.C.

Emergency Watershed Protection Program Floodplain Easements (EWPP-FPE)

County:
Applicant(s):
Address:

Date:

Section:
Township:
Range:

Telephone:
Group Name:

Flood-Damaged Acres
Adjacent Acres
Total Acres in Application



1. Frequency of Damage from Flooding

Mark X

- A. At least once in the last year 10 Points
- B. More often than twice in the last 10 years (>2 X) 5 Points
- C. Twice in the last 10 years (=2) 1 Point

1) Total:

2. Proximity to Other Protected Lands (within the same watershed)

- A. Adjacent to permanently protected property or part of a group EWPP project 20 Points
- B. Within one mile of another permanently protected property 10 Points

2) Total:

3. Easement acres offered:

- A. >300 acres 20 Points
- B. 100-299 acres 10 Points
- C. 30-99 acres 5 Points
- D. <30 acres 0 Points

3) Total:

4. Water Quality

- A. Offered acreage is *greater than or equal to* 75% Row Crops 20 Points
- B. Offered acreage contains cropland; but is *less than* 75% Row Crops 10 Points
- C. Offered acreage is pasture 5 Points
- D. Offered acreage is timber or uncropped (reed canary grass/CRP) 1 Point

4) Total:

5. Floodway / Floodplain Functionality

ENTER % THAT APPLIES

- A. % of flood-damaged acreage in the floodway 20 Points
- B. % of flood-damaged acreage in the 100-year floodplain 10 Points
- C. % of flood-damaged acreage in the 500-year floodplain OR directly connected 5 Points
- D. % of flood-damaged acreage not in mapped floodway/floodplain 1 Point

TOTAL DOES NOT YET EQUAL 100 PERCENT

4) Total:

6. Restoration Cost

- A. \$0 10 Points
- B. \$180/Acre or Less 7 Points
- C. \$181-\$300/Acre 4 Points
- D. Greater than \$300/Acre 0 Points

5) Total:

7. Partner Agrees to Assume Long-Term Maintenance/Management.

10 Points

6) Total:

TOTAL

COMMENTS (Please note if the restoration can occur within the next field season):