

entity to provide in cash at least 25 percent of the appraised fair market value of the conservation easement. The second option is for the entity to provide at least 50 percent of the purchase price in cash, of the conservation easement. The second option may be preferable to an entity in the case of a large bargain sale by the landowner. If the second option is selected, the NRCS share cannot exceed the entity's contribution.

The following two examples illustrate how these two cost-share options may function. Under Option 1 where 25 percent of the appraised fair market value is selected by the entity, the total appraised fair market value of the conservation easement is \$1 million. The landowner chooses to donate 40 percent of the appraised fair market value, resulting in the actual easement purchase price being \$600,000. In this case, the cooperating entity contributes \$250,000 and NRCS contributes \$350,000. Option 2, where 50 percent of the purchase price is selected, would occur when a landowner makes a large charitable donation, where 25% of the appraised fair market value exceeds 50 percent of the purchase price. For example, the total appraised fair market value of the conservation easement is \$1 million. The landowner chooses to donate 60 percent of the appraised fair market value, resulting in the actual easement purchase price being \$400,000. In this case, NRCS and the cooperating entity both contribute \$200,000.

Definitions

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

Chief means the Chief of NRCS, USDA.

Conservation plan is 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 committees as established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) and by 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, State-wide, 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 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. Eligible land must be owned by landowners who certify that they do not exceed the adjusted gross income limitation eligibility requirements set forth in section 1604 of the Farm Security and Rural Investment Act of 2002. As defined by section 1604 of the Farm Security and Rural Investment Act of 2002, a landowner's adjusted gross income cannot exceed \$2.5 million for the three tax years immediately preceding the payment disbursement, which occurs when the conservation easement deed is executed.

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 would have sold on the effective date of the appraisal, after a reasonable exposure of time on the open competitive market, given a willing and reasonably knowledgeable seller and 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.

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) system is a land evaluation site assessment system, approved by the NRCS State Conservationist, used to rank land for farm and ranchland protection purposes. The ranking is based on soil potential for agriculture, as well as social and economic factors, such as location, access to markets, 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; and
- Is an organization described in section 501(c)(3) of that Code that is exempt from taxation under 501(a) of that Code; and
- 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 for the purpose of protecting topsoil by limiting nonagricultural uses of the land.

Prime soils are soils that have 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.

Soils that are of Statewide or local importance are soils 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.

State conservationist refers to an 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 soils are soils other than prime soils that are used for the