



United States Department of Agriculture



OFFICE OF INSPECTOR GENERAL

# Agricultural Conservation Easement Program — Application Process and Selection Priorities

## Audit Report 10601-0007-31

OIG assessed NRCS' application and ranking process for selecting easements with ACEP funding.

### OBJECTIVE

Our objective was to assess NRCS' application and ranking process for selecting easements for ACEP funding.

### REVIEWED

We reviewed: (1) applicable laws, regulations, and agency procedures concerning the ACEP application and ranking process; and (2) supporting documentation to evaluate the ranking scores and easement selection process. We interviewed NRCS officials in Washington, D.C., and State officials in Arkansas, Florida, and Montana to gain an understanding of the ACEP application and ranking process for FYs 2017 and 2018.

### RECOMMENDS

We recommend that NRCS clarify ACEP guidance on what supporting documentation is required to be maintained and readily available as support for the ranking and selection of ACEP applications.

### WHAT OIG FOUND

The Department of Agriculture's (USDA) Natural Resources Conservation Service (NRCS) works with farmers, ranchers, and private forest landowners nationwide to identify and address natural resource objectives. The Agricultural Conservation Easement Program (ACEP) combined three former NRCS easement programs and provides financial and technical assistance to help conserve agricultural lands and wetlands. Each easement application is ranked and selected based on unique factors.

We found that NRCS did not consistently maintain sufficient supporting documentation for 52 of 71 sampled applications in a manner that allowed it to be readily available for examination. This occurred because NRCS' guidance was unclear as to what supporting documentation was required to be retained in each easement case file. As a result, we were unable to fully evaluate the ranking scores for the approved applications, which totaled over \$26.5 million of approximately \$51.4 million in fiscal year (FY) 2017 and 2018 obligations. Furthermore, without adequate documentation, there is reduced assurance that applications were accurately ranked and selected.

NRCS generally agreed with our recommendation and we accepted management decision.





United States Department of Agriculture  
Office of Inspector General  
Washington, D.C. 20250



DATE: September 26, 2019

AUDIT  
NUMBER: 10601-0007-31

TO: Matthew Lohr  
Chief  
Natural Resources Conservation Service

ATTN: Robert Bradley  
External Audits, Farm Production and Conservation - Business Center for  
Natural Resources Conservation Service

FROM: Gil H. Harden  
Assistant Inspector General for Audit

SUBJECT: Agricultural Conservation Easement Program – Application and Selection Priorities

This report presents the results of the subject review. Your written response to the official draft is included in its entirety at the end of the report. We have incorporated excerpts from your response, and the Office of Inspector General's (OIG) position, into the relevant section of the report. Based on your written response, we are accepting management decision for the one audit recommendation in the report, and no further response to this office is necessary.

In accordance with Departmental Regulation 1720-1, final action needs to be taken within 1 year of each management decision to prevent being listed in the Department's annual Agency Financial Report. Please follow your internal agency procedures in forwarding final action correspondence to Office of the Chief Financial Officer.

We appreciate the courtesies and cooperation extended to us by members of your staff during our audit fieldwork and subsequent discussions. This report contains publicly available information and will be posted in its entirety to our website (<http://www.usda.gov/oig>) in the near future.



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## Background and Objectives

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### Background

The Department of Agriculture's (USDA) Natural Resources Conservation Service (NRCS) works with farmers, ranchers, and private forest landowners nationwide to identify and address natural resource objectives in balance with operational goals to benefit soil, water, wildlife, and related natural resources locally, regionally, and nationally.

The Agricultural Act of 2014 consolidated the authorities and purposes of the former Wetlands Reserve Program, Grassland Reserve Program, and Farm and Ranch Lands Protection Program into the Agricultural Conservation Easement Program (ACEP) by providing financial and technical assistance to help conserve agricultural lands and wetlands and their related benefits.<sup>1</sup> ACEP focuses on restoring and protecting wetlands, as well as conserving productive agricultural lands and grasslands. NRCS invested over \$431 million in conservation easements in fiscal year (FY) 2017 and over \$250 million in FY 2018.

ACEP consists of two easement enrollment components: agricultural land easements (ACEP-ALE) and wetland reserve easements (ACEP-WRE). To enroll land through ACEP-ALE, eligible partners may submit proposals to NRCS to acquire conservation easements on eligible land.<sup>2</sup> Under ACEP-ALEs, NRCS provides cost-sharing assistance to eligible partners to purchase agricultural land easements from eligible landowners to protect the agricultural uses, including grazing uses, and related conservation values on eligible lands. NRCS may contribute up to 50 percent of the fair market value of the agricultural land easement. Each easement is required to have an agricultural land easement plan that promotes the land's long-term viability. NRCS prioritizes applications that protect agricultural uses and related conservation values of the land and those that maximize the protection of contiguous acres devoted to agricultural use.

Similarly, landowners may apply to enroll land through ACEP-WREs. Under ACEP-WREs, NRCS protects wetlands by purchasing easements directly from eligible landowners through reserved interest deeds or by entering into 30-year contracts on acreage owned by Indian Tribes; in each case, providing for the restoration, enhancement, and protection of wetlands and associated habitats. NRCS prioritizes applications based on the easement's potential for protecting and enhancing habitat for migratory birds and other wildlife.

States may establish and advertise one or more application cutoff dates for one program, or both, during each fiscal year. NRCS State office personnel review, rank, and consider for funding applications received by NRCS prior to the cutoff date. NRCS State offices must make available to the public the ranking criteria used to evaluate applications 30 days in advance of any application deadlines. Any applications not received by the application deadline are considered for the next application period.

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<sup>1</sup> Agricultural Act of 2014, Pub. L. No. 113-79, 128 Stat. 649 (2014 Farm Bill).

<sup>2</sup> ACEP-ALE easements are awarded to eligible partners. Eligible partners include American Indian Tribes, State and local Governments, and non-governmental organizations that have farmland, rangeland, or grassland protection programs.

For ACEP-ALEs, program regulations require the State Conservationist to rank applications based on factors, such as: percent of prime, unique, and important soils in the parcel to be protected; percent of cropland, pastureland, grassland, and rangeland in the parcel to be protected; ratio of the total acres of land in the parcel to be protected to average farm size in the county; existence of a farm or ranch succession plan; and proximity of the parcel to other protected land.

For ACEP-WREs, the ACEP regulations require the State Conservationist to rank applications for enrollment based on: the likelihood of successful restoration of wetland functions and values; maximizing wildlife benefits; the cost of acquiring the easement or 30-year contract; the significance of the wetland functions and values; and the duration of a proposed enrollment, with permanent easements being given priority over nonpermanent easements or 30-year contracts.

## **Objectives**

Our objective was to assess NRCS' application and ranking process for selecting easements for ACEP funding.

## Finding 1: NRCS Can Improve Documentation of the Ranking Process

We found that NRCS did not consistently maintain sufficient supporting documentation for 52 of 71 ACEP applications in a manner that allowed it to be readily available for examination. This occurred because NRCS' guidance was unclear as to what supporting documentation was required to be retained in the easement case file. As a result, we were unable to fully evaluate the ranking scores for the approved applications, which totaled over \$26.5 million of approximately \$51.4 million in FY 2017 and 2018 obligations.<sup>3</sup> Without adequate documentation, there is reduced assurance that ACEP applications were accurately ranked and selected.

The Government Accountability Office's (GAO) *Standards for Internal Control in the Federal Government* requires that all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination. All documentation and records should be properly managed and maintained.<sup>4</sup>

NRCS established an ACEP program manual for States to utilize for ACEP implementation.<sup>5</sup> The manual provides the basic requirements States must follow in the ranking and selection processes for both ACEP-ALE and ACEP-WRE applications. The manual requires States to maintain a six-part paper easement case file, as well as maintain other electronic program records and documentation, as appropriate. However, the manual does not provide specific details regarding what documentation NRCS staff should maintain to support its ranking decisions.

During our review, we evaluated both ACEP-ALE and ACEP-WRE easement case files.<sup>6</sup>

**Table 1. Number of approved and not-approved ACEP applications without sufficient documentation.**

ACEP Easement Type	State Universe <sup>7</sup> of ACEP Applications	Total Obligations	Number of Sampled Approved Applications	Number of Sampled Not-Approved Applications	Number of Sampled Approved Applications Without Sufficient Documentation	Number of Sampled Not-Approved Applications Without Sufficient Documentation	Obligations for Approved Sample Applications Without Sufficient Documentation
ALE	55	\$23,464,961	16	14	11	6	\$11,103,393
WRE	362	\$27,939,643	21	20	17	18	\$15,462,175
<b>Total</b>	<b>417</b>	<b>\$51,404,604</b>	<b>37</b>	<b>34</b>	<b>28</b>	<b>24</b>	<b>\$26,565,568</b>

<sup>3</sup> Our objective was limited to evaluating and assessing NRCS' application and ranking process for selecting easements for ACEP funding. We did not evaluate the dollars associated with these applications as that occurs after the ranking is completed, as part of the easement closing process. Hence, we will not be recommending monetary recovery.

<sup>4</sup> GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G, (Sept. 2014).

<sup>5</sup> NRCS, *Title 440 – Conservation Program Manual*, 440-528-M, 1<sup>st</sup> Ed. 113 (May 2017).

<sup>6</sup> We reviewed both approved and not-approved easement case files. Not-approved easement case files included files that were rolled over to the next fiscal year and files that were not approved to participate in ACEP.

<sup>7</sup> We selected a non-statistical random sample of ACEP-ALE and ACEP-WRE approved and not-approved applications in Arkansas, Florida, and Montana for FYs 2017 and 2018 for review.

Our review of these easement case files found that NRCS did not consistently maintain sufficient supporting documentation to fully support its ranking scores. For example, we found that 7 of 16 approved ACEP-ALE easement case files did not contain supporting documentation of a farm succession plan. The existence of a farm succession plan or similar plan serves to address farm viability for future generations, and it is one of the national ranking criteria used to select ACEP-ALE applications for funding. Each of these seven applications received points for this ranking element (i.e., the farm succession plan) without the support of a documented plan. Either a descriptive narrative of the farm succession plan from the entity or documentation of a plan from an industry professional would have sufficed as supporting documentation for the ranking score.

In another example, while reviewing ACEP-WRE easement case files, we found that 25 of 41 easement case files were missing their preliminary wetland restoration plans. The preliminary restoration plans describe opportunities for protecting and restoring wetland areas and define existing conditions, habitat types, specific problems, and actions that will occur on the easement to restore the wetland. This information would provide adequate justification of the ranking scores and suffice as supporting documentation.

As a result, OIG was unable to fully assess the ranking scores for 28 of the 37 approved applications in our sample.<sup>8</sup> In addition, 24 of the 34 not-approved applications in our sample did not contain sufficient documentation to assess the accuracy of the ranking scores.<sup>9</sup>

NRCS national officials stated that some of the missing information for both types of easement case files could potentially be recreated and therefore may not need to be printed out and saved. However, these officials agreed that the guidance could be clarified as to what documentation needs to be maintained and where that information should be stored.

We believe that the use of recreated documentation assumes the information remains static from the time it was originally created. However, this is not always the case. For example, a proposed easement is awarded points based on its proximity to other existing easements. If NRCS was asked to recreate documentation to support a ranking score at a later date, there may be additional easements present that were approved after the initial ranking. Such a change may result in the recreated documentation not supporting the original ranking score and require NRCS to invest additional time and resources to validate the original ranking. In some cases where documentation was not saved, NRCS staff may be required to perform new site visits so parcels can be re-evaluated. Therefore, we believe that NRCS should clarify in its guidance what documentation is required to be maintained to support its ranking scores for ACEP applications and ensure that this documentation is maintained in a manner that is readily available for review.

## **Recommendation 1**

Clarify ACEP guidance on what supporting documentation is required to be maintained and readily available as support for the ranking and selection of ACEP applications.

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<sup>8</sup> The 28 approved applications were comprised of 11 ACEP-ALEs and 17 ACEP-WREs.

<sup>9</sup> The 24 not-approved applications were comprised of 6 ACEP-ALEs and 18 ACEP-WREs.

## **Agency Response**

In its September 17, 2019 response, NRCS stated:

Existing policy requires a copy of the ACEP ranking documentation to be retained in the easement case file and uploaded to the easement business tool (currently [National Easement Staging Tool]). NRCS will provide additional training via recorded net conference to reiterate the existing policy and provide additional guidance regarding the need to retain information supporting the ranking score if such information is not static and cannot be readily recreated.

NRCS is also in the process of developing an automated Conservation Assessment Ranking Tool (CART), which will include ACEP. Beginning in fiscal year (FY) 2020, States will build their program ranking criteria and associated assessment tools within CART. This automated system will be used to conduct assessments and generate and document the resultant ranking scores based on those assessments. As CART is deployed in FY 2020, much of the ranking documentation will be automatically stored. NRCS is in the process of providing training to States on use of the new CART system, including building the ranking and the associated supporting materials that are integrated into the assessment tools.

NRCS estimated that the corrective action will be completed by March 30, 2020.

## **OIG Position**

We accept management decision for this recommendation.

## Scope and Methodology

We conducted our audit at NRCS Headquarters in Washington, D.C., and at its State offices located in Little Rock, Arkansas; Gainesville, Florida; and Bozeman, Montana. Nationwide, in FY 2017, there were 2,893 ACEP applications with 659 approved easements,<sup>10</sup> totaling over \$431 million in financial assistance obligations. In FY 2018, there were 2,683 ACEP applications with 369 approved easements,<sup>11</sup> totaling over \$250 million in financial assistance obligations.

Our audit covered ACEP applications that NRCS received and ranked in FYs 2017 and 2018. We utilized maps published by NRCS that summarized FY 2017 ACEP information that identified States based on the acres enrolled, approved easements, and the amount of financial assistance obligated by NRCS. We selected a non-statistical sample of three States that were identified on the map as being in the highest category for the number of acres enrolled, the number of approved easements, and the amount of financial assistance obligated. The three States selected were Arkansas, Florida, and Montana. In each State, we selected a non-statistical random sample of ACEP-ALE and ACEP-WRE approved and not-approved applications for FYs 2017 and 2018. We reviewed 20 applications in Arkansas, 24 applications in Florida, and 27 applications in Montana.

The table below shows the total number of approved and not-approved applications in each sampled State, the number of sampled applications in each State, and the amounts obligated for those applications in FYs 2017 and 2018.

**Table 2. Number of Approved and Not-Approved ACEP Applications in Arkansas, Florida, and Montana**

State, Easement Type	Number of Approved Applications	Amount Obligated	Number of Approved Applications Sampled	Amount Obligated for Samples	Number of Not-Approved Applications	Number of Not-Approved Applications Sampled
Arkansas ACEP-ALE	0	\$0	0	\$0	0	0
Arkansas ACEP-WRE	48	\$41,115,478	10	\$10,911,115	257	10
Florida ACEP-ALE	7	\$15,744,568	6	\$13,228,568	11	6
Florida ACEP-WRE	20	\$33,132,467	6	\$15,702,634	21	6
Montana ACEP-ALE	29	\$35,924,874	10	\$10,236,393	8	8
Montana ACEP-WRE	12	\$4,845,005	5	\$1,325,895	4	4

<sup>10</sup> NRCS approved 213 ACEP-ALEs and 446 ACEP-WREs for FY 2017.

<sup>11</sup> NRCS approved 174 ACEP-ALEs and 195 ACEP-WREs for FY 2018.

To accomplish our objectives, we performed the following procedures:

- Interviewed NRCS officials in Washington, D.C. to gain an understanding of the ACEP application and ranking process;
- Interviewed NRCS State officials in Arkansas, Florida, and Montana to gain an understanding of the ACEP application and ranking process;
- Reviewed applicable laws, regulations, and agency procedures concerning the ACEP application and ranking process; and
- Reviewed supporting documentation to evaluate the ranking scores and easement selection process.

We conducted fieldwork from August 2018 to May 2019.

We make no representation regarding the adequacy of any agency computer systems or information generated by them. Information systems were not used extensively throughout the aspects of the program under our review. Additionally, evaluating the effectiveness of information systems controls was not part of the engagement objectives. However, during the course of our audit, we obtained data from the agency information system for use in selecting our non-statistical sample to review. We assessed the reliability of data by: (1) reviewing published information about the data; (2) interviewing agency officials knowledgeable about the data; and (3) comparing supporting documentation to the information contained in the agency data. We determined that the data were sufficiently reliable for the purposes of this report.

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## Abbreviations

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ACEP .....Agricultural Conservation Easement Program  
ACEP-ALE ....Agricultural Conservation Easement Program–Agricultural Land Easements  
ACEP-WRE ...Agricultural Conservation Easement Program–Wetland Reserve Easements  
CART .....Conservation Assessment Ranking Tool  
FY .....fiscal year  
GAO .....Government Accountability Office  
NRCS .....Natural Resources Conservation Service  
OIG .....Office of Inspector General  
USDA.....Department of Agriculture

**AGENCY'S  
RESPONSE TO AUDIT REPORT**



United States Department of Agriculture

Date: September 17, 2019

SUBJECT: Response to the Office of Inspector General (OIG) Report 10601-0007-31, Agriculture Conservation Easement Program-Application and Selection Priorities for recommendation 1.

TO: Gil H. Harden  
Assistant Inspector General for Audit  
Office of Inspector General

Attached are the Natural Resources Conservation Service (NRCS) responses to the OIG Official Draft dated August 16, 2019, transmitting OIG's Results for Audit # 10601-0007-31, Agriculture Conservation Easement Program (ACEP)-Application and Selection Priorities.

**In Summary:**

OIG assessed NRCS' application and ranking process for selecting easements with ACEP funding. NRCS did not consistently maintain sufficient supporting documentation for many applications in a manner that allowed it to be readily available for examination.

If you require additional information, please contact Kenneth Hill, Director, Performance, Accountability, and Risk Division, at (202) 772-6035.

/s/  
Matthew Lohr  
Chief

Attachment

cc: (/w attachment)

Jimmy Bramblett, Deputy Chief for Programs, Washington, D.C.

Jeffery White, Acting Director, Easement Programs Division, NRCS, Washington D.C.

Dan Lawson, Director, Policy and Program Analysis Division, NRCS, Washington D.C.

Leslie Deavers, Chief of Staff, NRCS, Washington D.C.

Ron Alvarado, Acting Deputy Chief for Management and Strategy, Washington D.C.

Kevin D. Norton, Associate Chief, NRCS, Washington, D.C.

Kenneth Hill, Director, Performance, Accountability, and Risk Division, Washington, D.C.

Juliette White, Acting Branch Chief, External Audits and Investigations, Beltsville, Maryland

## **Agency Response - Audit Report 10601-0007-31 Natural Resources Conservation Service**

### **Agricultural Conservation Easement Program (ACEP) —Application Process and Selection Priorities**

#### **Finding 1: NRCS Can Improve Documentation of the Ranking Process**

OIG found that NRCS did not consistently maintain sufficient supporting documentation for 52 of 71 applications in a manner that allowed it to be readily available for examination. This occurred because NRCS' guidance was unclear as to what supporting documentation was required to be retained in the easement case file. As a result, OIG was unable to fully evaluate the ranking scores for the approved applications, totaling over \$26.5 million of approximately \$51.4 million in obligations. Without adequate documentation, there is reduced assurance that applications were accurately ranked and selected.

#### **Recommendation 1**

Clarify ACEP guidance on what supporting documentation is required to be maintained and readily available as support for the ranking and selection of ACEP applications.

#### **Agency Response:**

Existing policy requires a copy of the ACEP ranking documentation to be retained in the easement case file and uploaded to the easement business tool (currently NEST). NRCS will provide additional training via recorded net conference to reiterate the existing policy and provide additional guidance regarding the need to retain information supporting the ranking score if such information is not static and cannot be readily recreated.

NRCS is also in the process of developing an automated Conservation Assessment Ranking Tool (CART), which will include ACEP. Beginning in fiscal year (FY) 2020, States will build their program ranking criteria and associated assessment tools within CART. This automated system will be used to conduct assessments and generate and document the resultant ranking scores based on those assessments. As CART is deployed in FY 2020, much of the ranking documentation will be automatically stored. NRCS is in the process of providing training to States on use of the new CART system, including building the ranking and the associated supporting materials that are integrated into the assessment tools.

**OIG POSITION:** [Note: OIG will provide after NRCS submits agency response.]

**ESTIMATED COMPLETION DATE: March 30, 2020**

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