

Clean Ohio Agricultural Easement Purchase Program

2011 Guidelines and Policies

Ohio Department of Agriculture (ODA)

Office of Farmland Preservation

Tentative Opening: Wednesday, January 5, 2011

Deadline: Tuesday, April 5, 2011 at 5 p.m.

The Ohio Department of Agriculture's Office of Farmland Preservation anticipates distributing \$6.25 million in the tenth funding round of the Clean Ohio Agricultural Easement Purchase Program (AEPP). The funds will be used to purchase agricultural easements from Ohio farmland owners. All applications must be received by electronic submission AND hardcopy on or before **5 p.m. on Tuesday, April 5, 2011**. The hard copy, consisting of a signed printout of the application with required attachments, can be sent by registered or certified mail to the Office of Farmland Preservation and must be postmarked on or before the deadline.

In addition to reading through the following 2011 Policies which are listed below, please review the following documents and share them with the farmland owner:

- Sample Deed of Agricultural Easement
- Ohio Revised Code (ORC) Chapter 901.22 and updated Ohio Administrative Code (OAC) Chapter 901-2
- Clean Ohio AEPP Application Handbook

Complete Application – Any application may be deemed as incomplete and ineligible for funding if all required information and attachments are not submitted with the application by the above-mentioned deadline. Data must be accurate as of the day of application submission. If changes occur, contact ODA.

Farm – An application must consist of parcel(s) held by the same legal interest. Each applicant farm must be a minimum of 40 acres unless the land is located adjacent to property with an agricultural easement. In this case, the land may be a minimum of 25 acres. All contiguous parcels owned by the same legal interest must be submitted as one farm; no contiguous parcels under the same ownership can be withheld from the application. See updated OAC 901-2-01 (DD) for "contiguous parcels" definition.

Eligibility and Scoring Criteria – An application property's enrollment in all eligibility criteria (e.g., "Agricultural District" §929 of ORC, "Current Agricultural Use Valuation (CAUV)" § 5713.30 of ORC) must be in place by the application deadline. Furthermore, an application property's enrollment, designation, or other submitted data within the application (e.g., "Agricultural Security Area (ASA)" §931 of ORC, ODA Century Farm, Historical Designation) must also be in place and documented accurately as of the submission date.

Farmstead/Homestead Policy – ODA’s 2011 AEPP farmstead policy permits one homestead to be reserved if no housing currently exists on the applicant property. The reservation allows for one-single family home to be built in the future. If housing exists on the property at the time of application, then no additional residences may be built. Any future or existing house on the preserved farm may not be subdivided from the farm.

Large Farm Exception Policy – A large farm exception allows the landowner to request one of the following exceptions based on the farm value or the farm size. The Director of ODA, at his discretion, shall determine whether to grant this exception. The Director's approval must be obtained prior to the submission of an application and a copy of such approval shall be submitted with the other required attachments to the application.

If an exception is granted, the landowner has the option to submit one or both halves of the farm as individual applications or may submit the whole farm, reserving the one time split for the future. If the request for a future one-time split is granted, a description of the proposed split must be provided and approved by the State Grantee directly prior to the proposed division.

To request a Large Farm Exception, write to the Director of ODA and the Executive Director of Farmland Preservation. The letter should indicate which exception is requested (size or value), the time of the one-time split (now or in the future), and include aerial or topographic maps distinguishing the property and associated parcel numbers.

- Large Farm **Size** Exception: Farms comprised of no less than 400 acres may request the one-time option to split the farm into two parcels of approximately equal size.
- Large Farm **Value** Exception: If the applicant farm's points-based appraisal is greater than \$1 million, the landowner may request the one-time option to split the farm into two parcels of approximately equal size.

Title and Appraisal Costs – ODA may initiate a title examination, purchase title insurance, and request the land be appraised. The costs incurred by ODA for these services will be reimbursed to the department by deducting the costs from the agricultural easement purchase payment at closing. ODA may choose to provide reimbursement to the landowner for the appraisal, up to a maximum threshold of \$1,500 for those farms which also receive FRPP funding.

Funding Caps – The maximum dollar amount per acre is set at \$2,000 and the total dollar amount per farm is set at \$500,000. There is also a \$500,000 limit per county within this round of funding. No individual will be awarded more than one funded property in this tenth round of funding. The Director also reserves the right to adopt additional guidelines according to OAC 901-2-05 (E).

Multi-County Farm – If an applicant farm is located within more than one county, the applicant may choose which county it wishes to apply under. The county listed on the application will determine how questions are answered within the application. If the farm straddles two counties within two different quadrants, the farm will be considered part of the quadrant where the county of application is located. A multi-county farm will have multiple deeds recorded, one for each county in which the applicant property is located. Therefore, multiple Present Condition Reports will be created, one for each county.

The following additional steps for a multi-county farm need to be addressed:

- Local Sponsors that are political subdivisions: Obtain your own organization's resolution (per Attachment A) as well as resolutions supporting the agricultural easement from all other townships and counties in which the farm sits. (Example: Smith County SWCD is the Local Sponsor, submitting an application for a farm that sits in both Smith County (Roberts Township) and Jones County (Wilson Township). They must attach 1) Smith SWCD resolution, 2) Jones County resolution, and 3) Wilson Township resolution)
- Local Sponsors that are charitable organizations: Obtain resolutions supporting the agricultural easement from all counties and townships in which the farm sits (per Attachment H), along with your own organizational resolution (per Attachment A). (Example: Able Land Trust is the Local Sponsor, submitting an application for a farm that sits in both Smith County (Roberts Township) and Jones County (Wilson Township). They must attach 1) Able Land Trust resolution, 2) Smith County resolution, 3) Roberts Township resolution, 4) Jones County resolution, and 5) Wilson Township resolution)
- The Adjusted Land Value may have different values for the multiple portions of the farm. If this is the case, Step 19 will need to be calculated by hand in order to recognize the different values of the land. A calculation worksheet and example is available online or contact ODA for assistance.

Natural Resources Conservation Service (NRCS) and ODA Cooperation – In order to further extend farmland preservation funding, ODA reserves the right to submit any Clean Ohio AEPP farm into the Farm and Ranch Lands Protection Program (FRPP) through the United States Department of Agriculture, NRCS. Prompt assistance to meet federal requirements of the FRPP may be requested from the landowner. ODA may also seek approval of NRCS on all Deeds of Agricultural Easement receiving federal matching funds.

Clear Title Fast Track – This new initiative will allow properties that meet the requirements of being a "Clear Title" as described below to be prioritized with the goal of having the easement closed within one year of the returned title search. All other properties that do not meet the requirements of the "Clear Title" at the return of the title search initiated by ODA will be prioritized to close within the normal 18-24 month timeframe.

Definition of “Clear Title” for the “Clear Title Fast Track” – The “Clear Title” must meet both the requirements of the Clean Ohio AEPP and the FRPP programs. According to the OAC 901-2-06 (B) (4): “Interests that limit the title of a property, such as mortgages, leases, liens, restrictions, or legal or equitable interest, must be cleared or subordinated, unless exempted by the Director.”

All title concerns must be removed from the title prior to the title search in order to gain the “Clear Title Fast Track” designation. This includes but is not limited to:

- Mortgages must be subordinated or a “Consent to Easement” must be signed by the mortgage holder
- No oil & gas leases may be present on the title (this includes historic and active/current oil and gas leases)
- All utility easements and/or rights of way must be installed/utilized and the encumbrance must not continue to limit the future easement
- No other “clouds” on the title may exist including those described within the OAC nor those that do not meet the requirements of the FRPP

All necessary accompanying documents may be submitted to ODA at the time of application as “Attachment K” or by mail prior to the title search. ODA is unable to guarantee exact day of a title search and would recommend submitting all documents with or before the Notice of Selection is returned.

Regional Balance – Regional Balance, as defined in § 901-2-01 of the OAC, will again be considered in the evaluation of AEPP applications. For the 2011 funding year, the regional distribution will be the same as the 2010 and 2009 funding years. Each quadrant will be distributed equal portions of the available funding, regardless of the amount of applications received from the quadrant or county. See the map below with the delineated quadrants.

