



Extension FactSheet

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Agricultural Easement Purchase Program

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The Agricultural Easement Purchase Program (AEPP) provides up to 75% matching grants to be awarded to interested farmland owners who wish to sell their development rights to a local government or land trust jointly with the Ohio Department of Agriculture. AEPP attempts to preserve Ohio's most productive farmland for future generations in a voluntary program that benefits farmers in accordance with local land use decisions. \$25 million of the \$400 million bond issue approved under the Clean Ohio Fund was appropriated for the Agricultural Easement Purchase Program. This funding will be divided over four years starting in 2002 to purchase agricultural easements. The state will award up to 75% matching grants with the remainder 25% (or more) being met through local match or donation by the owner.

History of Agricultural Easement Purchase Program (AEPP) in Ohio

Several New England and Mid-Atlantic States initiated agricultural easement purchase programs during the 1970s to maintain local food production capacity and provide various other open land services. Ohio considered programs then, but nothing was initiated at that time.

A grass roots movement in the 1980s and early 1990s renewed interest in land use policy and farmland preservation programs. In 1996, former Governor George V. Voinovich appointed the Ohio Farmland Preservation Task Force. Recommendations from this task force included the creation of an agricultural easement purchase program and the Office of Farmland Preservation within the Ohio Department of Agriculture.

In January 1999, Ohio Senate Bill 223 was signed into law making possible the acquisition of agricultural easements by the Ohio Department of Agriculture, local governments, and nonprofit organizations. However, no funding was provided with this bill. Governor Bob Taft signed House Bill 3, the Clean Ohio Fund, into law in July 2001. The Clean Ohio Fund included funding for the Ohio Agricultural Easement Purchase Program.

What is an Agricultural Easement?

An agricultural easement is a legal agreement limiting the use of land to predominantly agricultural or related use. In this agreement a landowner agrees to use the land only for agricultural purposes and permanently relinquishes the right to develop the land for non-agricultural activities. The landowner retains ownership and management of the land with a governmental entity or non-profit organization "holding" the easement, which grants them the legal right to enforce the agreement.

The agricultural easement is a permanent and legally binding restriction upon the land, which does not affect the rights to sell or pass along the land. Provisions in the easement allow for termination if farming becomes impossible or impractical, though termination requires significant justification. Termination will be very difficult, and financial recoupment provisions would be enforced.

An agricultural easement does not grant ownership or the right to develop the land to the government or nonprofit organization "holding" the easement. Nor does it allow the "holder" to dictate the type of agriculture and conservation practices used on the land or grant public access to the land. It does not grant physical access to the farmer's land nor is the land covered by the easement removed from the real property tax rolls.

Why Agricultural Easement Purchase Program?

In recent years, statistics have shown that people in Ohio are increasingly moving to smaller cities, rural villages, and townships from the larger cities. According to recent census data, more people now reside in townships than in either large or small cities. Some township residents live in subdivisions, but many live on scattered 1 to 5 acre lots. As people move out into typically agricultural areas, future land use patterns are affected. Development can be positive, but studies show that scattered residential growth costs more in services than the revenue it generates. Scattered development increases problems between farm and non-farm neighbors.

AEPP seeks to maintain agricultural areas by preserving good agricultural soils under intermediate development pressure. AEPP provides the landowner access to equity in the land without having to sell it. Thus, the landowner receives payment for the development value of the land, and the land continues to provide farmland services. Besides providing our food supply, farmlands have other benefits including eco-system services such as groundwater recharge, and composting of organic wastes; wildlife habitat, prevention of soil erosion, and aesthetic relief from more congested areas. AEPP seeks to create viable “blocks of farmland” in perpetuity around Ohio

How does the Agricultural Easement Purchase Program Work?

The Agricultural Easement Purchase Program (AEPP) provides state grants to counties, townships, municipalities, and land trusts to purchase agricultural easements from farmland owners. The State of Ohio, through grants, provides funding for up to 75% of the purchase price with a limit of one award per landowner. The state’s share is capped at \$3,000 per acre and \$1 million award per landowner per funding round. For each funding round, a \$1 million per county cap has been established. The remaining 25% or more of the purchase price needs to come from either the local applicant (counties, townships, municipalities, and land trusts) as cash and/or the landowner as a donation of a portion of the value of the easement. The 2003 application includes a formula to figure the value of the agricultural easement of the land enabling the landowner to know the amount they would be paid before submitting the application.

The AEPP is administered through the Office of Farmland Preservation at the Ohio Department of Agriculture. Counties, townships, municipalities, or non-profit organizations such as the American Farmland Trust, Tecumseh Land Trust, Three Valley Conservation Trust, and Southern Ohio Farmland Preservation Association must be the applicant and are responsible for submitting the AEPP application to the Ohio Department of Agriculture on behalf of interested farmers. Completed applications including necessary supportive information need to be filed with the Ohio Department of Agriculture in the spring (Specific dates may change each year. April 30th is the date in 2003.).

The Ohio Department of Agriculture’s twelve-member Ohio Farmland Preservation Advisory Board scores the Tier Two section of the highest-ranking Tier One applications and determines the order in which applicants will be approached for possible easement purchase. If the landowner is chosen, he or she must decide whether to enter into a Deed of Agricultural Easement. If the landowner agrees to enter the Deed of Agricultural Easement, the applicant receives the funds from the Ohio Department of Agriculture for the purchase.

The applicant (counties, townships, municipalities, or non-profit organizations) becomes the “local holder” of the agricultural easement, and is required to monitor and enforce the easement. The Ohio Department of Agriculture is the co-holder of the agricultural easement purchased through AEPP. The landowner

receives payment from the applicant for the agricultural easement after signing the Deed of Agricultural Easement.

Eligibility Requirements

These requirements must be met in order to be eligible for the program.

- The land must currently be enrolled in CAUV (Current Agricultural Use Value).
- The farmer follows Best Management Practices.
- The landowner/landowners possess a clear title to the property in which all parcels are contiguous and certify that the property contains no hazardous substances.
- The farmer of the property has been in compliance with state and federal agricultural laws for the last five years.
- The property is a minimum of 50 acres unless the land is adjacent to other permanently preserved agricultural land so the total is at least 50 acres. (This is a new requirement for 2003.)
- The property in question falls within a designated area for farmland preservation in the local long-range comprehensive plan and is stated as such by the local government.
- The local government or nonprofit organization agrees to monitoring/enforcement responsibilities.
- The application must include resolutions of support for the agricultural easement. If the property is located in an unincorporated area of the county, only one resolution of support is necessary if the local government is the applicant. When the applicant is a non-profit organization, then the county commissioners, township trustees, and non-profit organization must provide resolutions of support or a letter not opposing the easement. If the property is located in a municipality, the non-profit organization must provide resolutions of support from the municipal council and the non-profit organization.
- Identification of the party(s) providing the minimum 25% match is required. The minimum 25% match can come from counties, townships, municipalities, non-profit organizations, or be a donation from the landowner. If the match is coming from the local government, the amount and source of the money must be disclosed. If the applicant is a non-profit organization, its function must be the purpose of farmland preservation, and the organization must be tax exempt.

Application Process

The landowner initiates the process of entering the Agricultural Easement Purchase Program (AEPP) by contacting and requesting a qualified applicant (county, township, municipality, or non-profit organization) to apply on the landowner’s behalf. The landowner and applicant will need to work together to complete the application, especially Section C, which requires detailed information. Section C is used in Tier Two of the scoring process. In question 2 of Section C it is important to show a commitment to agriculture, and in question 5 the future plans for the farm need

to be discussed. Before signing the application in Section D, the landowner should carefully examine the application to ensure all information is correct, all necessary verification is attached, and all questions are answered thoroughly.

The application must include the following attachments and verifications:

Attachment A is the required resolution. If the sponsor is the local governing body (county, township, municipality), the resolution should include (1) support for application, (2) confirmation of the minimum 25% or more match or donation, and (3) commitment to monitor and enforce the easement in perpetuity. If the sponsor is non-profit organization, the resolution needs to include the above 1, 2, and 3 from the non-profit organization plus a resolution from the appropriate local governing body supporting, or not opposing, the easement.

Attachment B is a copy of the current deed.

Attachment C is a plat map or other map showing the entire farm.

Attachment D comes from the County Auditor providing tax records of the land values, which is needed for Part II, Section A, Item 6.

Attachment E is a map, or sketch required in Part II, Section B, Items 1 through 5 and may be provided by the County Engineer or Planning Department. The county or municipal Engineer certifies property description and verifies distances are accurate. The Engineer must sign the application and state if a new survey of the application property is or is not necessary.

Attachment F is a soil map and soil legend provided by the Soil and Water Conservation District. They must complete and sign Part III and verify use of conservation planning. They also complete soil type and productivity sheet (page 16).

Attachment G is an aerial photograph of the land.

The landowner must sign verification that the farm follows Best Management Practices and has been in compliance with state and federal agricultural laws for the last 5 years.

Sponsor representatives who assisted the landowner in completing application must sign the application as well.

If third party interests are involved (such as mortgage holders, mineral or gas leasers, farm leasers, etc.), they must submit letters of subordination agreeing to the terms of the Agricultural Easement.

Scoring of the Application

A two-tier ranking system is used to score the applications with a maximum score of 150 points. A total of 100 points can be recorded in Tier One, which tries to objectively find the best candidates for the Agriculture Easement Purchase Program. Local sponsors will score the Tier One ranking, and the Ohio Office of Farmland Preservation staff will verify the scoring. The Ohio Department of Agriculture’s Office of Farmland Preservation will determine which of the highest-ranking Tier One applications will advance

to the Tier two ranking. The 12-member Farmland Preservation Advisory Board of the Ohio Department of Agriculture (ODA) will score Tier Two, which consists of an additional 50 points to decide whom to recommend to the Director of ODA.

The Tier One ranking system is divided into six divisions, A-F.

Divisions	Possible Points
A. “Soils” are rated on the basis of being prime, unique, and/or locally important plus their agricultural productivity. The county Soil and Water Conservation District will complete the section on soils in the application.	0 to 20
B. “Location relative to other protected areas” scores the farm’s location as to whether it is in or close to a permanently protected agricultural area, or in close proximity to permanently protected public or private lands. Scoring is dependent on what type of categorized protected land it is and the amount of acreage in the application farm.	0 to 15
C. “Conservation Plan” awards points for an implemented conservation plan as developed by the Natural Resource Conservation Service, Soil and Water Conservation District or other qualified organization.	5
D. “Development Pressure” scores farmland according to its proximity to publicly available sewer and water, to highway interchanges, to the number of non-farm dwellings within one mile of the farm and amount of road frontage. Farms facing intermediate development pressure are rated higher than those facing low or imminent development pressure.	0 to 20
E. “Local Comprehensive Plan” rates the farm on whether there is a less than seven-year old local comprehensive land use plan with the farm in a designated agricultural area, which includes zoning restrictions.	0 to 20
F. “Other Factors” includes location proximity to urban counties, farm in an agricultural district, unique cultural characteristics, and if local match is greater than 25%.	0 to 20

In the Tier Two ranking the five questions in Section C of the application are awarded up to 10 points each. The twelve-member Advisory Board will meet and determine the scoring of Tier Two. The five questions are:

1. Describe the general area where the farm is located with regard to adequacy of agricultural infrastructure, support services and facilities.
2. Discuss what long-term investments in agricultural operations have been made that are relevant to the continued operation of the farm.
3. Describe in what way the farm could become a good demonstration or showcase project for the promotion of farmland preservation in Ohio.
4. Discuss what additional measures the governmental entity where the farm is located has taken to protect farmland, such as establishment of an agricultural preservation board, a funded office of farmland preservation, establishment of a revenue stream to purchase agricultural easements, creation of a land conservancy, or public commitments to farmland protection.
5. Discuss any estate plan, farm succession plan, or business management plan in place for the farm, and identify any other conservation program participation.

The combined scores of Tier One and Tier Two will provide the grand total for the application. The Advisory Board will then rank the applications according to their grand total and recommend finalists to the Director of the Ohio Department of Agriculture. Based on available funding the Director will make the final selections.

Results of 2002 AEPP Applications

The Ohio Department of Agriculture's Office of Farmland Preservation received a total of 442 applications totalling over 63,000 acres. Applications were submitted from forty-nine of Ohio's eighty-eight counties. At an estimated \$2000 per acre, these applications far exceeded the available funding for the 2002-year through AEPP funds.

A total of 67 applications totaling 10,338 acres scored over the Tier One cut-off point of 60. The Advisory Board met and decided on Tier Two scores. These are posted on the following web site according to scores and county:

<http://www.state.oh.us/agr/Farmland%20Preservation/Ag%20Easement%20Program/scores/scorescover.htm>

Twenty-four farms were chosen to receive funding for the 2002-year through AEPP funds.

References

Ohio Department of Agriculture, Ohio Agricultural Easement Purchase Program 2003—Second Funding Round: Application and Ohio Agricultural Easement Purchase Program Ranking System, Second Funding Round—2003, February 4, 2003.

Ohio Department of Agriculture, Ohio Agricultural Easement Purchase Program Application, January 7, 2002.

Schear, Peggy, Clean Ohio Fund Agricultural Easement Purchase Workshop PowerPoint Presentation, Ohio State University Extension, March 26, 2002.

Schear, Peggy and Clark, Jill, Clean Ohio Fund Agricultural Easement Purchase Phase One—Application Process PowerPoint Presentation, March 26, 2002.

Wise, Howard; Daubemire, Joe; Garrett, Vicki; Libby, Lawrence; Hall, Peggy Kirk; Prindle, Allen; Clark, Jill; Schear, Peggy; Smyser, Jennifer; Applicant Handbook, Ohio Agricultural Easement Purchase Program Clean Ohio Fund, January 7, 2002.

Application and information is available on the world-wide web at:

<http://www.state.oh.us/agr/CleanOhioFund/CleanOhioFundIndex.htm>

Visit Ohio State University Extension's web site "Ohioline" at:
<http://ohioline.osu.edu>

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