

WISCONSIN WORKING LANDS INITIATIVE

DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION

Purchase of Agricultural Conservation Easement Grant Program

What is an Agricultural Conservation Easement?

An agricultural conservation easement restricts nonagricultural development of land covered by the easement. Entering into an agricultural conservation easement is a voluntary way for a farm owner to be compensated for permanently limiting development on his or her farmland and protecting important resources. The covered land remains privately owned and managed.

Under an easement, a landowner

- Privately owns and manages the land
- Retains land for farming, while augmenting income
- Retains title to the property
- Can collect farmland preservation income tax credit
- Continues to be responsible for property tax

Who can apply to the state for a grant to purchase an Agricultural Conservation Easement? Grants through the state's PACE program are available to assist cooperating entities (local governments or nonprofit conservation organizations) with the cost of purchasing an Agricultural Conservation Easement.

What costs can be reimbursed by the state through the grant program? How does the reimbursement happen? The state may pay up to 50% of the fair market value of the easement (not 50% of the total land value, since the farmer still owns and operates the land), and all of the transaction costs. The cooperating entity must arrange for the rest of the easement purchase cost, but may get funding from other sources. Farmers may also donate part of the easement value. Easement donation may allow landowners favorable federal tax treatment.

Costs will be reimbursed after the easement document has been signed by the landowner, and accepted by the cooperating entity and the state. The easement document must be recorded with the county register of deeds. Upon submission of the certified copy of the easement document and proof of payment of associated costs, the state will provide reimbursement.

What is the term of an easement and how will these terms be enforced?

The easement continues indefinitely, and runs with the land. An easement may only be vacated by a court if it is found that the easement no longer serves its intended purpose. The State of Wisconsin and the cooperating entity will be joint holders of the easement. Either entity may enforce or defend the terms of the easement.

How will easement opportunities be identified?

The state must appoint an advisory council to advise on any easement purchase. This advisory council will be involved in easement identification and evaluation of any submitted easement proposal.

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Process to receive a grant under the state's new PACE program

1. Submission of an easement proposal during an annual solicitation period
2. Evaluation of easement proposals by state, with the assistance of an advisory council
3. Preliminary approval given to easement proposal
4. Submission of additional legal information related to the sale and appraisal
5. Easement purchase completed
6. Reimbursement provided to the cooperating entity

What information must be included in an easement proposal?

- Identity of the cooperating entity
- Description of the proposed easement land, including location, acreage and current use
- Name and address of each land owner
- Evidence of landowner willingness to convey the proposed easement
- Commitment to arrange the easement purchase and share in the purchase cost
- Purpose and rationale for the proposed easement
- Information needed to evaluate the easement proposal (see criteria below)

What criteria will the state use to evaluation easement proposals?

- Value for preserving agricultural production capacity and extent to which it will conserve important or unique agricultural resources
- Importance in protecting or enhancing waters of the state or other public assets
- Extent of consistency with county and local farmland preservation plans and zoning ordinances.
- Enhancement of an "agricultural enterprise area" designated under WLI
- Availability, practicality and effectiveness of other methods to preserve the land in question
- Proximity to other protected agricultural or conservation land and ability to enhance protection
- Cost-effectiveness of the easement
- Likelihood that, without the easement, the land will be converted from agricultural use
- Willingness of all the landowners to convey the easement

What additional steps are required following preliminary approval on an easement proposal?

- Copy of the proposed legal document that will be used to convey the easement.
- Appraisal (by a state-certified appraiser) of the fair market value of the proposed easement.
- Easement purchase cost.
- Estimate of the transaction costs to be incurred by the cooperating entity.
- A complete title search.
- Documentation showing, to DATCP's satisfaction, that any material title defects or conflicting property interests have been resolved.

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