

Policies and Guidelines

(As of January 6, 2023)

The following policies and guidelines were approved by the NC ADFP Trust Fund Advisory Committee. The list is not all-inclusive and will be periodically updated.

Agricultural Conservation Easements

Preference: Preference will be given to projects protecting whole farm units rather than projects protecting partial acreage. (Approved 09-03-08)

Term (Non-Permanent) Easement Value: Term agreements will be paid on a percentage of the easement value and will be eligible for funds as follows: (Approved 12-11-07)

50 year easement	60% easement value
40 year easement	40% easement value
30 year easement	30% easement value
20 year easement	20% easement value
10 year easement	10% easement value

Term Easements & EVAD Relationship: Agricultural Conservation Easements may be used to add additional years to an existing EVAD agreement but can not grant funds for the remaining time of existing EVAD agreements. (Approved 12-09-08)

Appraisals (Permanent Easements): A state certified appraisal that determines the development rights value that will be removed, or a state certified appraisal that determines the highest and best use value on a property enrolled in Present-Use Value, or a minimum of two (2) comparable property sales of like-kind nearby tracts as determined by a state-certified appraiser, or the county tax value may be used less the county PUV to the estimated development rights value will be needed to assess land values when initially submitting an application. When a ADFP Trust Fund grant is partnered with the USDA Agricultural Conservation Easement Program (ACEP), Forest Legacy Program, or other federal programs which require a full yellow book appraisal, the ADFP Trust Fund will accept the full yellow book appraisal. Otherwise, the appraisal must be completed by either a N.C. State Certified Residential or N.C. State Certified General Real Estate Appraiser and comply with Uniform Standards of Professional Appraisal Practice, (USPAP) as published by the Appraisal Standards Board. ADFP Trust Fund monies may not be used to pay for appraisals. However an appraisal expense can be used as a matching grant resource. An appraisal will not be required when grant applicant is only awarded funds for transactional costs. The ADFP Trust Fund will accept appraisals dated within one year of a scheduled closing date. An appraisal update may be submitted within 60 to 32 days before a potential closing date pending the approval of all funding partners. No appraisals will be accepted 30 days before a potential closing date or end of a contract. (Revised 3-1-22)

Appraisals (Term Easements): A state certified appraisal that determines the development rights value that will be removed, or a state certified appraisal that determines the highest and best use value on a property enrolled in Present-Use Value, or a minimum of two (2) comparable property sales of like-kind nearby tracts as determined by a state-certified appraiser, or the county tax value may be used less the county PUV to the estimated development rights value will be needed to assess land values when initially submitting an application. The appraisal must be completed by either a N.C. State Certified Residential or N.C. State Certified General Real Estate Appraiser and comply with Uniform Standards of Professional Appraisal Practice, (USPAP) as published by the Appraisal Standards Board. ADFP Trust Fund funds may not be used to pay for appraisals. However an appraisal expense can be used as a matching grant resource. An appraisal will not be required when grant applicant is only awarded funds for transactional costs. The ADFP Trust Fund will accept appraisals dated within one year of a scheduled closing date. An appraisal update may be submitted within 60 to 32 days before a potential closing date pending the approval of all funding partners. No appraisals will be accepted 30 days before a potential closing date or end of a contract. (Revised 3-1-22)

Surveys: If the property has a reliable metes and bounds description, then additional surveying will not be required at the time of closing. However, if the deed description is outdated and without permanent defined points, then an updated survey will be needed before closing. This is consistent with other federal

programs, which may be used as a match for an ADFP Trust Fund grant. Building envelopes or partial farm easements will also need to be surveyed or GPS located before the easement is signed and final grant payment is received. ADFP funding may be used to cover survey costs. *(Revised 12-09-08)*

Easement Requirements: Applicants may require forest management and conservation plans from the grantor of the easement (landowner, farmer, etc.). Applicants may also require that the grantor of the easement (landowner, farmer, etc.) provide notice of the completion of any forestry activities. However, applicants may not require any prior notice be given before any type of harvest. *(Approved 09-03-08)*

Easement Grants: Allowable transaction costs may be included in grant allocation in addition to determined easement value of the land parcel. The total grant allocation may not be increased above contract amount. *(Approved 12/09/08)*

Easement Purchases: Recorded easement acreage shall have no more than a 5% variance less than the proposed number of acres contacted without prior written approval of the Trust Fund. The share of the funds used to purchase the agricultural easement from matching resources and Agency resources must be maintained as approved in contract. *(Approved 5/12/2015)*

Easement Contracted Purchase Exceptions: The ADFP Trust Fund may grant an exception to the share of the funds provided that matching resources for easement purchase or donation of value is 50% or greater. If proposed matching resources for easement purchase are not provided or reduced, the contracted easement acres may be reduced equivalently to the reduction of proposed matching resources. *(Approved 5/12/2015)*

Baseline Documentation: Baseline documentation is required for all easements prior to closing and recording of an easement. *(Approved 12-09-08)*

Environmental Audit: All easements will require disclosure of any environmental hazards by the landowner and the grant recipient. Any noted environmental hazards must be rectified prior to closing and recording the easement. *(Approved 12-09-08)*

Building envelopes: Up to 3 building lots may be designated per easement. All lots must be clearly defined by a survey and properly described in the easement language and recorded with the County Register of Deeds. Lots may not compromise the conservation value of the property or restrict the agricultural production of agricultural crops, horticulture or forestry production on the parcel of land being considered for an agricultural easement. Building envelopes must comply with all county zoning regulations and be limited to only one housing unit. *(Approved 12-09-08)*

Farmstead Area Designations: Agricultural conservation easements may allow for one or more "Farmstead Areas". A "Farmstead Area" must be clearly defined in the baseline documentation and properly described in the easement language. A "Farmstead Area" may not compromise the conservation value of the property or restrict the agricultural production of agricultural crops, horticulture or forestry production on the parcel of land being considered for an agricultural easement. Any structure in the Farmstead Area must be complimentary to agriculture production and comply with all county zoning regulations. *(Approved 12-09-08)*

Impervious Surfaces: An agricultural conservation easement funded by the N.C. ADFP Trust Fund has an impervious surface limit of two (2) percent of the total acreage of the agricultural conservation easement. This restriction applies to permanent and temporary impervious surfaces, both existing and proposed. An impervious surface is defined as an area covered by water-resistant materials. These include, but are not limited to, paved or packed roads, structures and rooftops, concrete pads, oil and gas well pads, and solar panels. To ensure the current and long-term viability of an agricultural operation, an increase in the impervious surface limit may be allowed up to five (5) percent of the total acreage of the agricultural conservation easement if there is a need based on current or planned agricultural uses and residential and farm support housing structures are limited. This waiver may be submitted during the open contract period prior to the recording of the conservation easement. No amendments to the impervious surface limit will be accepted after recording the conservation easement. *(Approved 12-06-2022)*

Matching Requirements

Match Source: Match may not be from a like kind appropriation source as the ADFP Trust Fund grant funding. Example, NCDA&CS state appropriated funding matching ADFP Trust Fund state appropriated funding. (Approved 5/12/2015)

Special Recognition for Landowner Donation for Military: A landowner donation of conservation easement value may be used a replacement of military funding provided the following criteria are achieved.

- The military service provides documentation that the land is a high priority protect parcel.
- The military service provides funding to assist with appraisal, closing, legal and other administrative expenditures to secure the conservation easement.
- ADFPTF grant funds for the purchase of the conservation easement are limited to 50% or less of the appraised value.
- ADFPTF grant funds may be used to assist with administrative expenditures except for the appraisal to secure the conservation easement.
- ADFPTF grant funds may be considered for monitoring and stewardship funding.

(Approved 5-23-2019)

Matching Requirements for Permanent Easements: Matches can be in-kind, cash, donated easement value, or money from other programs of like kind to the ADFP Trust Fund. Programs used for matching must restrict the development rights and have restrictive language attached to the deed. For example, a funding match from USDA Farm & Ranch Protection Program would be eligible while a USDA Conservation Reserve Program would not be eligible. Matches must be directly associated with and concurrent to the land parcel being considered for an ADFP Trust Fund grant. Monitoring and transaction fees associated with the land parcel under consideration may be considered a match provided all cost values can be fully disclosed and certified before final grant payment is received. Monitoring fee matches are capped at 3% of the agricultural conservation easement value of the land parcel. ADFP Trust Fund grants can not be used for indirect costs. (Revised 12-09-08)

Matching Requirements for Term Easements: By defining the value of a term easement, land owner donations and any partnering term easement program restricting development rights on the deed could then be considered for match. ADFP Trust Fund grants can not be used for indirect costs. Programs used for matching must restrict the development rights and have restrictive language attached to the deed. Matches must be directly associated with and concurrent to the land parcel being considered for an ADFP Trust Fund grant. Monitoring and transaction fees associated with the land parcel under consideration may be considered a match provided all cost values can be fully disclosed and certified before final grant payment is received. Monitoring fee matches are capped at 3% of the term agricultural conservation easement value of the land parcel. (Revised 12-09-08)

Matching Requirements for Agricultural Development Programs: Agricultural development programs can use in-kind services, cash, land donation, labor hours, and equipment costs as matches but the burden of proof lies on the applicant. A statement of value for such items as equipment must be certified by a specialist or an authority in the respective field. ADFP Trust Fund grants can not be used for indirect costs. (Approved 12-11-07)

Monitoring and Stewardship Funding

Beginning with grant cycle IX, ADFP Trust Fund may provide funding for monitoring and stewardship of ADFP Trust Fund easements. Funding is limited to 3% of the appraised easement value being purchased by the ADFP Trust Fund and must be equally matched *or up to 1.5% of the appraised easement value of a donated conservation easement without match requirement.* The ADFP Trust Fund shall approve the administrative account management and the monitoring / stewardship polices of the easement holder. The grant funding will be restricted to expenditures associated with monitoring and stewardship of the property. (Approved 2/22/17)

Property Eligibility Requirements

To be eligible for a conservation easement through the ADFP Trust Fund's program, the property must be privately-owned, located within the borders of the State of North Carolina, and in working lands use (agriculture, horticulture, forestry). Minimum acreage requirements must follow the present-use value guidelines: Five acres for horticulture, 10 acres for agriculture (row crops or pasture), 20 acres for forestry, or a combination of working lands use. If there are existing easements that have removed the development rights from the property, those easement areas will be ineligible for the program and do not count towards the minimum acreage requirements. (Approved 3-1-22)

Contracts

Determination: If a selected grant recipient fails to return a completed grant contract by the stipulated deadline, ADFP Trust Fund will notify the selected grant recipient in writing as a warning. The selected grant recipient will be allowed a grace period of 10 working days from the date of correspondence to return the completed contract. After the stipulated grace period the offer will be rescinded and the grant funding reallocated. *(Approved 12-09-08)*

Grant Recipient Eligibility: Recipients must be either a North Carolina county entity or a non-profit conservation organization. Any non-profit conservation organization whose headquarters are outside North Carolina must maintain an office in North Carolina and be registered with the North Carolina Secretary of State's office. *(Approved 12-09-08)*

Contract Extensions: Extensions requests and all required documentation must be received by ADFP Trust Fund a minimum of 60 days prior to contract termination date. *(Approved 12-09-08)*

Subcontracting: The Grantee shall not subcontract any of the work contemplated under ADFP Trust Fund Contract without prior written approval. Any approved subcontract shall be subject to all conditions of the ADFP Trust Fund Contract. Only the subcontractors or subgrantees specified in the contract documents are to be considered approved upon award of the contract. The ADFP Trust Fund shall not be obligated to pay for any work performed by any unapproved subcontractor or subgrantee. The Grantee shall be responsible for the performance of all of its subgrantees and shall not be relieved of any of the duties and responsibilities stipulated in the ADFP Trust Fund Contract. *(Approved 12-09-08)*

Contract Awards: Contract awards are based on funding availability. If total grant requests exceed the funding allocation for the grant cycle, the ADFP Trust Fund will fund a maximum of four (4) applications per category (perpetual easements, term easements, agricultural development projects/agricultural plans) per applicant. Applications for donated easement proposals requesting only transaction cost assistance are not considered in this contract limit. Each organization or agency may submit up to four (4) donated easement proposals per funding cycle. If the funding allocation for the grant cycle is greater than the total grant requests, the contract maximum per applicant is waived for the grant cycle. *(Revised 3-1-22)*

Maintaining Grantee Eligibility Status:

ADFPTF shall apply the following guidelines when assessing a grantee's eligibility status as a grant recipient:

<i>Frequency of Adverse Actions</i>	<i>Severity of Consequences</i>		
	Low Severity	Medium Severity	High Severity
High Frequency	Medium Risk	High Risk	High Risk
Medium Frequency	Low Risk	Medium Risk	High Risk
Low Frequency	Low Risk	Medium Risk	Medium Risk

Definitions:

- High Frequency: Five or more times per reporting period
- Medium Frequency: Three or four times per reporting period
- Low Frequency: One or two times per reporting period
- Low Severity: These adverse actions cause disruptions and delays to the division.
- Medium Severity: These adverse actions put grantees out of compliance with the terms of grant contracts and reporting requirements.
- High Severity: These adverse actions cause significant financial, programmatic, or legal issues that jeopardize the grantee's status as an eligible grant recipient.

Adverse Actions

- Low Frequency, Low Severity: Low Risk
 - Failure to return one or two completed grant contract packets within 10 working days without staff approval. The reporting period is a grant award cycle.
- Medium Frequency, Low Severity: Low Risk
 - Failure to return three or four completed grant contract packets within 10 working days without staff approval. The reporting period is a grant award cycle.
- High Frequency, Low Severity: Medium Risk

- Failure to return five or more completed grant contract packets within 10 working days without staff approval. The reporting period is a grant award cycle.
- All grant payments and proposed grant contracts are frozen until reports are filed and approved. Review of proposed grant requests (RFPs) may continue but no grant contracts may be offered.
- Low Frequency, Medium Severity: Medium Risk
 - One or two late budget and progress reports or monitoring reports in the previous reporting period. The reporting period is either semi-annually or quarterly for open contracts, and annually for monitoring reports.
 - All grant payments and proposed grant contracts are frozen until reports are filed and approved. Review of proposed grant requests (RFPs) may continue but no grant contracts may be offered.
- Medium Frequency, Medium Severity: Medium Risk
 - Three or four late budget and progress reports or monitoring reports in the previous reporting period. The reporting period is either semi-annually or quarterly for open contracts, and annually for monitoring reports.
 - All grant payments and proposed grant contracts are frozen until reports are filed and approved. Review of proposed grant requests (RFPs) may continue but no grant contracts may be offered.
- High Frequency, Medium Severity: High Risk
 - Five or more late budget and progress reports or monitoring reports in the previous reporting period. The reporting period is either semi-annually or quarterly for open contracts, and annually for monitoring reports.
 - One or more late budget and progress reports or monitoring reports in the two previous reporting periods. The reporting period is either semi-annually or quarterly for open contracts, and annually for monitoring reports.
 - All grant payments and proposed grant contracts frozen until reports are filed and approved. Review of proposed grant requests (RFPs) discontinued, and no grant contract may be offered.
- Low Frequency, High Severity: Medium Risk
 - Failure to submit the final report and all invoices within 20 working days (28 calendar days) following the closing and recording date of one or two conservation easement projects. The reporting period is annual.
 - Failure to submit the final report and all invoices by the 10th of the month following the contract's ending date or within 20 working days (28 calendar days) following the completion of the project for one or two agricultural development projects or agricultural plans. The reporting period is annual.
 - All grant payments and proposed grant contracts are frozen until reports are filed and approved. Review of proposed grant requests (RFPs) may continue but no grant contracts may be offered.
- Medium Frequency, High Severity: High Risk
 - Failure to submit the final report and all invoices within 20 working days (28 calendar days) following the closing and recording date of three or four conservation easement projects. The reporting period is annual.
 - Failure to submit the final report and all invoices by the 10th of the month following the contract's ending date or within 20 working days (28 calendar days) following the completion of the project for three or four agricultural development projects or agricultural plans. The reporting period is annual.
 - Material weakness found in audit. Remain at high risk until it is corrected.
 - All grant payments and proposed grant contracts frozen until reports are filed and approved. Review of proposed grant requests (RFPs) discontinued, and no grant contract may be offered.
- High Frequency, High Severity: High Risk
 - One or more late budget and progress reports or monitoring reports in the three previous reporting periods. The reporting period is either semi-annually or quarterly for open contracts, and annually for monitoring reports.
 - Named on the North Carolina Office of State Budget and Management (OSBM) Suspension of Funding List (SOFL). The reporting period is weekly.
 - Failure to submit the final report and all invoices within 20 working days (28 calendar days) following the closing and recording date of five or more conservation easement projects. The reporting period is annual.

- Failure to submit the final report and all invoices by the 10th of the month following the contract's ending date or within 20 working days (28 calendar days) following the completion of the project for five or more agricultural development projects or agricultural plans. The reporting period is annual.
- All grant payments are frozen. Grantee is not eligible for an ADFP Trust Fund grant application or contract. *(Approved 10-11-2022)*

Partnership and Special Appropriation Funding & Granting Process

Application Process: Application for grant funding will follow authorizing appropriation protocols and consider the objectives of partner funding directives. ADFPTF may restrict or designate areas within North Carolina to give recognition of partnership protocols when using partnership funding, provided all legal and state budget rules are met. ADFPTF staff shall review applications for partnership and special appropriation grant requests and report their recommendations for grant awards to the Advisory Committee. The Advisory Committee shall then review and make recommendations to the Commissioner of Agriculture for grant contracting consideration. *(Approved 2-18-2021)*

Statewide Grant Applications Protocols:

Public Notice: The grant cycle or application period will be announced in a reasonable and acceptable time on the ADFPTF website and other approved methods before the initial application period. Unless revised by the Commissioner of Agriculture, an annual application period will last a minimum of 60 calendar days between mid-October and mid-December. *(Approved 2-18-2021)*

Evaluation Protocols: The evaluation method for selection and ranking applications for consideration of a grant shall be posted on the ADFPTF website. Evaluation tools used for the selection of potential grants shall be exhibited. ADFPTF staff will provide an evaluation ranking of all eligible applicants for the ADFPTF Advisory Committee review. After considering the staff recommendations, the Advisory Committee shall provide a ranked evaluation of the applicants to the Commissioner of Agriculture for consideration as potential grantees. *(Approved 2-18-2021)*

Maximum Grant Request Amount: The maximum acceptable grant request per application is capped at \$500,000. ADFPTF grant funds for the purchase of the conservation easement are limited to 50% or less of the estimated value. If a proposed conservation easement project exceeds the potential ADFPTF grant amount, the applicant may submit a multiple-phase plan for completion of the easement. ADFPTF will give priority consideration during the next request for proposals (FRP) for the next phase of the conservation easement project, provided the first phase is awarded for contracting and no infractions or late reports have occurred. Multiple phase conservation easement projects shall be limited to only two (2) active ADFPTF grants at the same time. *(Approved 2-18-2021)*

Grant Contract Budgeting & Payments

10% Hold Back: Grant contract budgeting and payments shall hold back 10% on all line items until ADFPTF receives all required reports and documentation. The full ADFPTF easement funding allocated for easement purchase may be submitted at closing, provided the closing attorney holds the 10% in escrow until all recorded documents and reports have been received and approved by NCDA&CS. This policy applies to all ADFPTF grant contracts.

Grantees may request lowering of the hold back percentage provided the following criteria have been provided:

1. An official request to the Commissioner of Agriculture with reasoning why the 10% hold back is an incomprehensible burden, and a proposed revised hold back percentage.
2. The Grantee has no record of infractions or late reports for ADFPTF within the last two years from the date of the revised hold back percentage request.
3. If an infraction or late report occurs during the contract period of the grant, the hold back percentage shall be reinstated at 10% or higher as a corrective measure. *(Approved 2-18-2021)*

Advancement of Conservation Easement Purchasing Funding: The conservation easement closing payment request may be submitted in writing by the Grantee 30 days before the set closing date provided the following items have been achieved:

- a. All closing documents, i.e., conservation easement, HUD statement, title commitment, subordination agreement if required, have been reviewed and approved by ADFPTF and NCDA&CS legal staff.
- b. All progress/budget reports and other administrative reports, such as monitoring, audit, etc., must be current with the ADFPTF. These reports include all current and previous grants associated with the Grantee using ADFPTF funding.
- c. The Grantee has followed the contractually-obligated work schedule as detailed in the grant contract. If Grantee fails to maintain contractual agreement between NCDA&CS and the Grantee, NCDA&CS ADFPTF shall require additional measures to ensure Grantee follows department policies and contract procedures.
- d. The proposed conservation easement closing date shall be no less than 30 days before the contract end date. This timeline is set to eliminate the risk of losing grant funds due to the contract's expiration.
- e. All parties, including ADFPTF, Grantee, landowners, and all funding partners with a financial interest in the conservation easement, will confirm the closing date.
- f. An electronic check may be submitted to the closing attorney named in the grant contract, provided all required information provided by the Grantee is approved by ADFPTF and NCDA&CS legal staff.
- g. If a contract is determined to be at risk of not being completed, NCDA&CS may provide alternatives to reduce that risk, including revisions of the holdback provisions or the payment delivery options for services rendered by contractual arrangement. *(Approved 2-18-2021)*

Emergency Grant Contract Extension Requests: If the Grantee has not provided all closing documents and progress/budget reports 30 days before the contract's end date, the Grantee may request an emergency contract extension of the grant to the Commissioner of Agriculture. This request must include reasons for not completing the grant and following the timetable of scheduled activities to complete the grant project. All other grant contract extension requests shall follow the protocols outlined in the NCDA&CS ADFPTF grant contract. *(Approved 2-18-2021)*

Average Cost Estimates: The average cost by grant line item for documents and activities for closing and recording an easement shall be presented annually to the ADFPTF Advisory Committee. The average cost estimates may be broken down into regional areas or statewide and based upon actual ADFPTF conservation easement costs within the previous five (5) years. The Advisory Committee shall provide the staff recommendations or may modify the report to the Commissioner of Agriculture. The ADFPTF staff, upon approval of the Commissioner of Agriculture, shall use the approved average costs in the development of conservation easement contract budgets. The contract budgets shall use the approved average cost estimate when the requested amount in the application budget exceeds the approved average cost. *(Approved 2-18-2021)*

Easement Purchase and Stewardship Endowment Line Items: The Easement Purchase and Stewardship Endowment line items in conservation easement grant contracts are ineligible for Budget Revision Requests. A Budget Revision Request exception for the Easement Purchase and Stewardship Endowment line items may be approved if all other grant funds are expended for allowable costs, the final appraised easement purchase is lower than the contract value, and the percentage of cash considerations to the landowner(s) is not reduced. The exception must be submitted in writing with a detailed explanation of the request and is subject to approval. *(Approved 3-1-22)*

General Information on Direct and Indirect Costs

Direct Costs: Costs that can be specifically identified with a particular project or program. *(Approved 12-09-08)*

Indirect Costs: Costs that are incurred by a grantee organization for common or joint objectives and which therefore cannot be identified specifically with a particular project or program. *(Approved 12-09-08)*

Special Terminology Use

Family Farm or Generation: The term "Family Farm" or "generation" shall recognize any private business entity legally accepted by the State of North Carolina associated with food or fiber production with the exception of municipal, county, state, or federal ownership. *(Approved 2-18-2021)*

Producer: Is defined as an individual or entity that produces an Agricultural Commodity through participation in the day-to-day labor, management, and field operations; or that has the legal right to harvest an Agricultural Commodity. (*Approved 2-18-2021*)

NOTE: Please also refer to the NC ADFP Trust Fund [Application Guidelines](#) and other instructional documents located on the ADFP webpage for additional guidance. Please see [General Information on Direct and Indirect Costs](#) for definitions and [Application Guidelines](#) for more cost information.