Request for Grant Applications

Funding for Agricultural Land Conservation Easements



California Department of Conservation  
2017

Agricultural Land Mitigation Grant Program

***The Department is now accepting applications for agricultural conservation easements in Fresno, Merced, Madera, Kern, Kings, Santa Clara or Tulare Counties. It is seeking to protect the state’s most productive farmland in this region, specifically Prime Farmland, Farmland of Statewide Importance, Farmland of Local Importance, or Unique Farmland. This program can help landowners who are interested in leaving a legacy for their family, considering retirement, or who want to contribute to the nation’s long-term food security.***

****For further information, please contact:

**California Department of Conservation**   
Division of Land Resource Protection   
California Farmland Conservancy Program   
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website: [www.conservation.ca.gov/dlrp](https://authoring.consrv.ca.gov/dlrp/grant-programs/mitigation/Pages/AgLandMitigation_HSRA.aspx)

photos  
  
All photos taken by Department staff.   
All properties shown are protected in perpetuity by agricultural conservation easements funded by the Department and partner organizations.

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# Chapter 1: Agricultural Land Mitigation Grant Program

## Purpose of Solicitation

The intent of this Request for Grant Applications (RFGA) is to detail the requirements and guidelines to apply for funding the purchase of permanent agricultural conservation easements (easement) in Fresno, Madera, Merced, Kern, Kings, Santa Clara or Tulare Counties.

The California Department of Conservation (Department) will secure conservation easements to permanently preserve Prime Farmland, Farmland of Statewide Importance, Farmland of Local Importance, and Unique Farmland in those counties

## Applicant’s Responsibilities

This solicitation contains application requirements and instructions. The Applicant is responsible for **carefully reading** the solicitation, asking appropriate questions in a timely manner, ensuring that all solicitation requirements are met, submitting all required responses in a complete manner by the required date and time, and **carefully rereading** the solicitation before submitting an application. In particular, please carefully read the **Applicant Requirements**, and the terms and conditions located at: http://www.conservation.ca.gov/dlrp.

Applicants are responsible for the cost of developing applications. This cost cannot be charged to the state. All submitted documents will become public records upon the posting of the Notice of Proposed Award.

## Key Words/Terms

|  |  |
| --- | --- |
| Word/Term | Definition |
| Applicant | The respondent to this solicitation. |
| Application | An Applicant’s formal written response to this solicitation. |
| Department | Department of Conservation |
| Easement | Agricultural Conservation Easement. |
| Project Manager | The person designated by the Applicant to oversee the project and to serve as the main point of contact for the Department. |
| Recipient | The recipient of an award under this solicitation. |
| Solicitation | This document, including all attachments and exhibits. “Solicitation” may be used interchangeably with “grant funding opportunity.” |
| State | State of California. |

# General Information

## The Agricultural Land Mitigation Program: Different Process, Same Long Term Conservation Goals

This solicitation is specific to Prime Farmland, Farmland of Statewide Importance, Farmland of Local Importance, and Unique Farmland located in Merced, Madera, Fresno, Kern, Kings, Santa Clara, or Tulare.

The primary differences between the Agricultural Land Mitigation Program (Program) and other easements acquired by the Department are:

* Match funding is not required nor considered in application evaluations.
* The application must include an appraisal.
* Landowners must waive their right to request administrative termination of the easement that would otherwise be provided by Public Resources Code section 10270.

Upon approval, grant applications will be formalized with a Grant Agreement between the Applicant and the Department. The Grant Agreement, available on the Department’s website, will be customized to each application. It is based on a standard state format and has a maximum duration of two years for completion of the easement acquisition.

## Key Activities Schedule

Key activities, dates, and times for this solicitation and for agreements resulting from this solicitation are presented below. An addendum will be released if the dates change for activities that appear in **bold.**

|  |  |  |
| --- | --- | --- |
| **ACTIVITY** | **DATE** | **TIME** |
| Solicitation Release | 1/5/17 | 3:00 p.m. |
| **Deadline to Submit Applications (Round 2)** | **5/22/17** | **3:00 p.m.** |
| Anticipated Notice of Proposed Award Posting Date | 7/3/17 | 3:00 p.m. |
| Anticipated Agreement Start Date | 8/4/17 | 3:00 p.m. |
| Anticipated Agreement End Date | 8/30/19 | 3:00 p.m. |

## Questions

During the solicitation process, questions can be emailed to the Department’s Contracts Liaison:

Kyrie Farrant, Department Contracts Liaison

E-mail: [kyrie.farrant@conservation.ca.gov](mailto:kyrie.farrant@conservation.ca.gov)

All **technical** questions must be received by the deadline to Submit Applications listed in the “Key Activities Schedule” above. Non-technical questions (e.g., questions concerning application format requirements or attachment instructions) may be submitted to the Department’s Contracts Liaison at any time prior to the application deadline.

If an Applicant discovers an **ambiguity, conflict, discrepancy, omission, or other error** in the solicitation after the deadline for written questions but prior to the application deadline, the Applicant may notify the Department’s Contracts Liaison via email and request modification or clarification of the solicitation. The Department will provide modifications or clarifications by written notice to all parties who requested the solicitation. At its discretion, the Department may re-open the question/answer period to provide all Applicants the opportunity to seek any further clarification required. If an Applicant submits a question after the deadline for written questions that does not concern a non-technical issue or a solicitation ambiguity, conflict, discrepancy, omission, or other error, the Department’s Contracts Liaison will refer the Applicant to the solicitation documents for guidance.

Any verbal communication with Department staff concerning this solicitation is not binding on the State and will in no way alter a specification, term, or condition of the solicitation. Therefore, all communication should be directed in writing to the Department’s Contracts Liaison at the above email address.

# Eligibility Requirements

## Applicant Requirements

1. **Eligible Applicants**

The Department may award grants to local governments and private nonprofit (501(c)(3)) organizations which have among their defined purposes the conservation of agricultural lands as provided by Public Resources Code section 10212.

Eligible governmental organizations include:

* cities,
* counties,
* resource conservation districts,
* regional park or open-space districts or regional park or open-space authorities that have the conservation of farmland among their stated purposes.

Nonprofit organizations must hold a tax exemption as defined under Section 501(c)(3) of the Internal Revenue Code, and further qualify under Internal Revenue Code sections 170(b)(1)(A)(vi) or 170(h)(3) as provided by Public Resources Code section 10221.

1. **Eligible Applications**

Easement applications are only eligible to be considered for grant funding if all the Eligibility Criteria (Attachment 1) are met. Any application that does not meet all the Eligibility Criteria will be rejected. In addition, applications will be selected based on the Selection Criteria (Attachment 2).

Because the grant application process entails a significant amount of work, Applicants are strongly encouraged to contact Department staff to discuss the characteristics of the proposed easement prior to completing the application.

To facilitate application review, please submit completed checklists with the application.

1. **Ineligibility**

Applications are considered **ineligible** if they do not meet the standards of 1 or 2, above, or fail to meet all of the eligibility criteria on Attachment 1 as described in 2, above.

1. **Terms and Conditions**

Each grant agreement resulting from this solicitation will include terms and conditions that set forth the recipient’s rights and responsibilities. By signing the Certification Sheet (Attachment 3), each Applicant agrees to enter into an agreement with the Department to conduct the proposed project according to the terms and conditions that correspond to its organization, without negotiation. The terms and conditions for all entities are located at http://www.conservation.ca.gov/dlrp). Failure to agree to the terms and conditions by taking actions such as failing to sign the Certification sheet or indicating that acceptance is based on modification of the terms will result in **rejection** of the application. The Applicant **must** **read** the terms and conditions carefully.The Department reserves the right to modify the terms and conditionsprior to executing grant agreements.

1. **California Secretary of State Registration**

California business entities and non-California business entities that conduct intrastate business in California and are required to register with the California Secretary of State must do so and be in good standing in order to enter into an agreement with the Department. If not currently registered with the California Secretary of State, the Applicant should contact the Secretary of State’s Office as soon as possible. For more information, visit the Secretary of State’s website at: [www.sos.ca.gov](http://www.sos.ca.gov).

1. **Insurance**

A successful Applicant shall obtain, and keep in force for the term of the Grant Agreement, the following insurance policies that cover any acts or omissions of the Grantee, its subcontractors or its employees engaged in the provision of service specified in this Grant Agreement:

1. Worker’s Compensation Insurance in an amount of not less than $1,000,000 in accordance with the statutory requirement of the State of California. (Cal. Lab. Code § 3700 et seq.)
2. Commercial general liability insurance in an amount of not less than $1,000,000 per occurrence for bodily injury and property damage combined.
3. Automobile liability in an amount of not less than $1,000,000 for each accident for owned or non-owned or hired vehicles, whichever is applicable.
4. The Grantee shall name the State of California, its officers, agents, employees and servants as additional insured parties for the commercial general liability and automobile liability insurance and is responsible for guaranteeing that a copy of each Certificate of Insurance is submitted to the Department within thirty (30) days of Grant Agreement signature.

The Grantee shall notify the Department prior to any insurance policy cancellation or substantial change of policy.

# Chapter 2: General Information

## Funding Levels and Property Valuation

1. **Amount Available and Maximum and Minimum Funding Amounts**

There are no minimum or maximum levels of funding for individual grants.

1. **Match Funding Requirement**

Matching contributions are not required under this Program, however, there may be circumstances in which multiple sources of funds are used. For example, easements could use a different fund source to protect habitat values on the nonagricultural portions of properties. In these situations, the Applicant would report any contributions or donations, including those that affect the purchase price of the easement or the stewardship fund calculation, under the “Other Funds” column of the Budget.

1. **Definitions**

* **“Equipment”** means an item with a unit cost of at least $5,000 and a useful life of at least one year. **Purchasing equipment with other funding is encouraged** because there are no disposition requirements at the end of the agreement for such equipment. Typically, grant recipients may continue to use equipment purchased with Department funds if the use is consistent with the intent of the original agreement.
* **“Materials”** meanstangible project items that cost less than $5,000 and have a useful life of less than one year.
* **“Travel”** meansall travel required to complete the tasks identified in the Scope of Work. Travel includes in-state travel, and travel to conferences.
* **“Subcontractor Costs”** means all costs incurred by subcontractors for the project, including labor and non-labor costs.

1. **Change in Funding Amount**

The Department reserves the right to:

* Set a maximum or minimum amount of funding allocated for this solicitation.
* Reduce requested funding to an amount deemed appropriate.

The Program will continue to accept applications until the needed acreage has been acquired or the funding is no longer available.

1. **Appraisals (UPDATED 1/13/2017)**

An estimated valuation must be included as part of a complete grant application, however this value can be determined by something other than a full appraisal that has been reviewed and approved by the Department and the Department of General Services Real Estate Services Division.

Prior to the disbursal of funding, a current easement appraisal must be submitted and it must be reviewed and approved by the Department and the Department of General Services Real Estate Services Division. The grant Applicant must select and retains an independent, certified appraiser to appraise the proposed easement property. The appraiser must use the “before and after” method of valuation, calculating the difference between the fair market value and the restricted value. The “before and after” method evaluates the property’s market value under two scenarios: one as the current market value without restriction, and second as the diminished value as though encumbered by an agricultural conservation easement.

The appraisal is subject to review and approval by the Department and the Department of General Services Real Estate Services Division. The Program may fund appraisal costs incurred prior to execution of the Grant Agreement if the application is approved for funding and if reimbursement for appraisal costs is sought in the grant application. The Program will only fund one appraisal per easement.

All appraisals must conform to the guidelines prepared by both the Department of General Services and the Department’s appraisal guide. Both documents are available on the Department’s website. The Applicant is encouraged to contact Department staff with any questions.

Applicants are encouraged to thoroughly discuss the restrictions and permitted uses of the proposed easement with the appraiser early in the appraisal process. Major issues such as reserved home sites or other areas that will not be utilized exclusively for agriculture must be confirmed prior to the appraisal, and be identified in the appraisal, as they will likely affect easement valuation. Subsequent changes to the proposed easement’s restrictions or permitted uses may necessitate an update to the appraisal.

In no situation shall the easement purchase price be greater than the appraised fair market value of the agricultural conservation easement.

If a significant amount of time (6 months or more) transpires between the effective date of the appraisal and escrow, the Applicant may be required to obtain a letter of certification from the appraiser, stating that the easement value has not changed since the appraisal was conducted. The grant recipient may be required to obtain an updated appraisal if the effective date is not within 12 months of the escrow closing date.

The Applicant should advise appraisers and landowners that appraisals may be subject to disclosure under the California Public Records Act.

1. **Use-Based IRS Deductions**

If a landowner seeks tax benefits from the Internal Revenue Service in return for charitable donation of an easement or portion thereof, the timing and requirements of the easement appraisal are critical. See a tax attorney or accountant for more information. A “special use valuation” and qualified IRS deduction may affect easement valuation.

## Easement Documents and Title Considerations

1. Model Easement

Please note that Department has developed a model easement for this Program that may be updated periodically. The model easement and related documents are available on the Department’s website.

The model easement ensures that all important terms and conditions are described and serves to streamline the approval process. The model easement will be used as a starting point and will be customized as needed to reflect individual property characteristics. The Applicant should use the model easement when discussing easement restrictions with landowners and appraisers.

Discussion of the terms and conditions for the proposed easement with the landowners early in the process will significantly expedite easement negotiation and review, and ensure an accurate appraisal. To limit delays, the Applicant is advised to submit any requested changes to the model easement when the application is submitted.

1. Due Diligence / Clear Title

Applicants are expected to exercise due diligence to discover and disclose any title concerns and include a plan for their resolution, should the proposal be awarded grant funding.

Separated minerals rights, leases, judgments, ownership anomalies, outstanding property interests, etc., may inhibit the conveyance of clear title. The Applicant is expected to exercise due diligence to discover and disclose such potential issues prior to submittal of the application. If grant funding is awarded, the Applicant is expected to disclose any title concerns and include a plan for their resolution within the application. Disbursement of funds for the purchase of an easement is contingent upon the Department’s determination that title concerns have been resolved.

1. Mortgage and Lien Subordination

As part of the easement acquisition process, any liens or other financial encumbrances on the property are required to be subordinated to the terms of the easement. Subordination documents are subject to review and approval by the Department.

It is possible that the lender may charge a fee to provide the subordination. The Applicant is encouraged to consult lenders early regarding subordination practices. Subordination fees may be eligible for reimbursement if requested in the grant application.

## Stewardship and Monitoring Requirements

1. Stewardship Fund

The total cost of the easement acquisition includes funds dedicated solely for the long-term stewardship of that easement. Stewardship typically includes the cost of annual monitoring, evaluation and defense of easement threats and are normally not more than 5% of the easement valuation.

As part of the Grant Agreement, the Applicant will certify its ability to effectively manage, account for, and annually report on those stewardship funds conveyed through the Grant Agreement.

In the Budget Itemization, the Applicant should include a stewardship amount that has been calculated to include a principle amount that, when managed and invested, is reasonably anticipated to cover the annual stewardship costs of the property in perpetuity. The stewardship fund amount will be subject to review and approval by Department, and may be different from the original budgeted amount concurrent with any changes to final easement configuration or property valuation. Stewardship funds will be paid at the same time as the easement transaction costs, after the easement has been recorded with the county.

1. Easement Monitoring

Regular monitoring of properties under easement is necessary to ensure compliance with the terms of the easement. The Department requires an annual report from the holder of the easement, certifying that the conditions of the easement are being upheld. The monitoring component of the application, not to exceed three pages, describes how the proposed easement will be monitored following its completion. The components of the monitoring plan are discussed in Chapter 3.

Additional Considerations

1. Additional Conservation Values

Land protected by an easement under this Program is expected to remain in agricultural production as provided in Public Resources Code section 10251(a). In order to maintain agricultural viability and protect the flexibility required to maintain agriculture in perpetuity, any subsequent easements layered over the easement may not restrict agricultural husbandry practices or otherwise conflict with easements funded by this Program.

Some portions of properties may provide an opportunity to protect additional resource values such as riparian habitat. These areas may be considered for purchase of nonagricultural conservation easements that protect resources *in addition to* the agricultural values. Please confer with staff early in the process if a property has this potential.

1. Potential Publicity

The Applicant is encouraged to inform landowners that a successful grant application may result in publicity. During the application evaluation and easement negotiation phases, documents associated with each easement application will be treated as confidential in accord with the requirements of the California Public Records Act.

Because public funds are used to secure easements, the landowner’s name and the amount of the grant are public records that may be publicly disclosed after completion of the easement in accordance with the Public Records Act.

# Chapter 3: The Grant Application

## Application Components and Considerations

This chapter provides additional information regarding the components of the Grant Application form. For ease of the Applicant, the form is attached to this RFGA and published separately on the Department’s website.

## Required Components

1. Easement Grant Application Checklist and Cover Sheet

These pages provide the Applicant’s contact information and a checklist to ensure all components of the application are included.

1. Executive Summary

This section, not to exceed one page, should provide a brief but thorough description of the proposal and its scope (farmland quality, location, size, and type of agricultural use). It should explain the potential or actual development pressure impacting the surrounding area, and any contributions the easement might make toward the establishment of greenbelts or urban separators. Please also include any information regarding the landowner’s need to meet any critical deadlines for concluding the transaction.

1. Budget

This section should identify the total estimated cost to complete the easement transaction, using the budget itemization table provided in the form. The total estimated cost should be broken down to clearly delineate funds being requested from the Program, and other commitments in the form of outside funding or donations, if any.

Associated staff costs *directly related to the easement acquisition* may be eligible for reimbursement if the costs:

* Are approved as part of the application.
* Were incurred after the submission of a complete application and no more than 180 days before the execution of the Grant Agreement.
* Occur during the time period of the written Grant Agreement.
* Include rates comparable to those of similar expertise in the applicable professions.

Subcontractors identified by the Applicant should be listed in the proposed budget, along with the subcontractors’ rates. After the grant application is approved, addition or identification of subcontractors requires documentation of a competitive bid process. The bid process and reasonableness of any changes are subject to the Department’s review. Please see Chapter 5 for more information regarding grant administration.

Eligible and ineligible costs are as follows:

|  |  |
| --- | --- |
| **Eligible Costs include,  but are not necessarily limited to:** | **Ineligible Costs include,  but are not necessarily limited to:** |
| * Easement purchase price * Reasonable costs associated with the acquisition, including but not limited to Applicant staff time for easement negotiations, technical and legal consulting, appraisal, preliminary title report, baseline conditions report, escrow fees, and title insurance fees. Payment of these costs are subject to Department review and shall not exceed 10 percent of the value of the easement for which the costs were incurred (PRC §10231). * Stewardship Funds | * Indirect overhead costs * Ceremonial expenses (including food and beverages) * Expenses for publicity * Bonus payments of any kind * Interest expenses * Damage judgments arising from the acquisition, construction, or equipping of a facility, whether determined by judicial process, arbitration, negotiation, or otherwise. * Services, materials, or equipment obtained under any other state program. * Real estate brokerage fees and/or expenses. |

1. Easement Acquisition Summary Sheet

The easement acquisition summary sheet describes the property and its characteristics within a standardized tabular format. Information regarding the ownership structure, number of legal parcels, water sources, mineral rights, and the existing and proposed infrastructure of the property (home sites, farm labor housing, etc) is entered on the form.

1. Detailed Characteristics of the Proposed Easement

This section is used to explain attributes of the proposed easement, the Applicant’s capabilities, and local government policies and actions that are relevant to the goals of the Program. It is formatted as a sequenced series of questions. This section should not exceed six pages.

1. Documentation of Public Notice and Local Government Resolution of Support

Before an application for an easement acquisition grant can be approved, the Applicant must provide public notice to parties reasonably likely to be interested in the property. This includes written notice to adjacent property owners, a more generalized public notice, and a notice to the local government indicating the Applicant’s intent to apply for an agricultural conservation easement. Applicants need to follow one of two tracks shown in the flowchart below in order to noticing requirements. The track that is chosen – Option A or Option B – will determine the order and timing of the documentation requirements for the Grant Application.

The two most common forms of public notification are a notice provided in a newspaper of general circulation in the area, or documented public notice made prior to meetings where local governmental bodies consider resolutions of support. Please note that the names of landowners whose property is being considered for an easement are not released to the public as part of this process. The Applicant is the contact listed in these notifications.

The timing of public and neighboring landowner notice is important. Written notice to adjacent landowners must occur no less than 30 days prior to the expected date of the local government’s consideration of a resolution of support. Notice to the county or city shall occur no less than 30 days before the Applicant submits a grant application. Because of the importance of notification timelines, Applicants are encouraged to work with staff to ensure that the process is completed in the correct order.

Samples of public notice documents and resolution of local government support are available on the Department’s website.

The Department will review the proposal for compatibility with the applicable General Plans. The governing body of the county or city in which the property is located must approve the easement proposal by resolution. If the property lies within the Sphere of Influence of an incorporated city, both city and county compatibility must be addressed by their governing boards.

A sample resolution in support of an easement is available on the Department’s web site. Resolutions for easements funded under this program should substantially conform to the sample form.

The local government resolution(s) must be provided before grant disbursement.

|  |  |  |  |
| --- | --- | --- | --- |
| **Public Notice Requirements and Public Resources Code Citations** | | | |
| Local government notice | 30 days | prior to | Application |
| Public notice |  | prior to | Funding Decision |
| Neighboring landowner notice | 30 days | prior to | Resolution of support |
| Resolution of support |  | prior to | Grant disbursement |

|  |  |  |
| --- | --- | --- |
| **OPTION A** |  | **OPTION B** |
| Neighboring Landowner Notification (at least 30 days prior to) |  | Local Government Notice Letter to Planning Director (at least 30 days prior to) |
| ⇩ Local Government Resolution of Support Request for resolution provides local government notice AND  BOS agenda provides public notice |  | ⇩ Grant Application Submission  ⇩ |
| ⇩ Grant Application Submission (at least 30 days after local government notice) ⇩ |  | Public Notice Newspaper published notice OR  BOS agenda provides public notice  (at any point prior to funding decision) ⇩ |
| Funding Decision (at least 30 days after public notice) ⇩ |  | Funding Decision ⇩ |
| Disbursement of Funds |  | Neighboring Landowner Notification (at least 30 days prior to) ⇩ |
|  |  | Local Government Resolution of Support ⇩ Disbursement of Funds |

1. Preliminary Title Report, Assessor’s Parcel Map(s), and Appraisal

These required documents are critical in evaluating the suitability of a property for an easement. Resolution of outstanding title issues in order to obtain clear title can be time consuming for the Applicant and the landowner. Similarly, an accurate appraisal ensures both the landowner and the Department that fair market value will be paid for the easement. Please see more about Title Due Diligence and Appraisals in Chapter 2.

1. Landowner Letter of Support

The Applicant must provide a letter from the landowner(s) stating their support for proceeding with the easement. The landowner states their intent to work with the Applicant to secure the easement. An option agreement, option to purchase agreement, purchase agreement, or similar document may be sufficient if it states that the owner intends to pursue an easement funded through the Department.

1. Conflict of Interest Certification

Nonprofit Applicants must provide certification that no conflict of interest or appearance of conflict of interest exists for any members of their Board of Directors or their staff as it relates to the proposed easement. In evaluation of potential conflicts of interest, land trust Applicants are encouraged to consider the Land Trust Alliance sample conflict of interest policies.[[1]](#footnote-1) The Department provides sample conflict of interest certification forms on its website.

1. Easement Monitoring Plan

Because easements are perpetual, monitoring is important to ensure compliance with the terms of the easement. The Applicant, who will become the easement holder, must submit a plan that describes how the easement will be monitored following its completion. The plan, up to three pages in length, must address all of the following:

* The plan for compiling a baseline conditions report. This report must be provided to the Department at the close of escrow and is the basis for future condition comparisons.
* The process and frequency of monitoring.
* Who will be responsible for monitoring on behalf of the Applicant.
* How monitoring documents will be archived.
* How the Stewardship Fund budget reflects the costs of monitoring, necessary enforcement, and management plan for maintaining the fund in perpetuity.

## Additional Components and Certifications

1. Affected Landowners--First Opportunity Provision Supplement

Applications for the purchase of an agricultural conservation easement that are submitted on behalf of landowners whose farmland has been purchased for the construction of the high-speed rail system’s right of way or related facilities will be reviewed prior to others received that cycle.

While all proposals must meet the eligibility criteria, this provision provides an opportunity for those most affected by high-speed rail to protect their remaining property for future generations.

Documentation of the impacts to these landowners, describing the location and scope of impacts relative to the property being proposed for placement of an easement, will be submitted as a one page supplement to the application.

1. Relevant Portions of County General Plan

Documentation of local government goals, objectives, policies, and implementation measures that support a long-term commitment to agriculture and agricultural land conservation is required.

To meet the requirements, the Applicant may attach the current version of these documents or state on the Easement Grant Application Checklist the adoption date(s) of these policies along with internet links to them.

1. Documentation of Organizational Eligibility

The Department requires documentation of Internal Revenue Service 501(c)3 status for nonprofit Applicants, along with the organization’s Articles of Incorporation and Bylaws documenting the principal charitable or public purposes of the nonprofit organization, a statement describing the organization’s goals and purposes, the beneficiaries of its programs, and a statement describing the organization’s commitment to conservation of agricultural land resources.

Applicants who have previously submitted these documents to the Department may certify that the existing documents remain current or submit updated documents with the application.

1. Letters of Support from Cooperating Entities

While optional unless requested by the Department, Applicants frequently submit letters of support from local officials, agricultural groups, conservation organizations, or other entities with an interest in conserving farmland through agricultural conservation easements.

1. Accreditation Documents

Applicants may submit documentation of fiscal and professional expertise to demonstrate their technical capacity to hold permanent agricultural conservation easements. This may take the form of Land Trust Alliance Accreditation or similar certifications.

1. Location Map

In addition to the required assessor’s parcel map(s), the Applicant may submit maps depicting the proposed easement parcel boundaries relative to Important Farmland data, nearest Sphere of Influence, priority planning areas, and other protected lands in the vicinity. The Department will evaluate proposals with publicly accessible GIS data, therefore, if the Applicant can document additional conserved lands or resource values that support the proposal, the Applicant is encouraged to provide supplemental maps.

Please note that detailed maps depicting property infrastructure, such as home sites, farm buildings, farm labor housing, and future building envelopes, are helpful in proposal review. These maps will be required for easement exhibits and baseline conditions reports. The accuracy of these exhibits is important as they will be incorporated into and therefore be a part of the easement.

1. Implementation Schedule

This section is used to explain the timeline and anticipated completion date for the easement acquisition, as well as any issues on which the timing will hinge, including the timeframe of a willing seller to complete a transaction. Please use the Implementation Schedule provided in the application form, and attach any necessary explanation, not to exceed one page.

While the Implementation Schedule is optional for the application phase, it will be required for the Grant Agreement should the proposal be selected for funding. State contracting requirements limit Grant Agreements to a maximum of two years.

# Chapter 4: Grant Application Submission

## How and When to Apply

Completed grant applications under this Program are due on **May 22, 2017**.

Applicants may submit multiple grant applications. Each proposal must be submitted as a separate application, which is distinct and can be reviewed independently of any other application. Easement applications are considered separate if properties are not held by the same landowner(s). An application may include multiple landowners only if the properties are within a specific, contiguous planning unit, and individual easement values are assigned for each property.

Early consultation with Department staff regarding proposed easements is strongly encouraged to achieve the most efficient review process possible.

The application and the eligibility and selection criteria for this Program are published both here and as separate documents on the Department’s website. The application contains a checklist to ensure that all necessary materials are submitted to facilitate a prompt application review.

If the Applicant has not already obtained a box.com account from the Department during the pre-proposal review, when the grant application is complete, please notify the Department at the following email address [ALMP@conservation.ca.gov](mailto:cfcp@conservation.ca.gov). Department staff will provide directions on how to upload the documents. Upon receipt, your application will be assigned to a grant manager.

Applications will be considered as submitted on the day that staff is notified that an application is ready for uploading.

## After Grant Application Submission

The grant manager will work with the Applicant to obtain any additional information necessary to enable a complete review of the easement proposal’s characteristics.

1. Site Reviews

The grant manager will contact the Applicant in order to schedule a site visit of the property. The Grant Applicant will make arrangements for a tour of the property that must be attended by a representative of the Applicant and by the property owner.

1. Funding Decisions

After visiting the site and clarifying any outstanding questions, the grant manager will summarize the easement application and provide briefings to staff and management. Applications are evaluated relative to the eligibility and selection criteria.

While multiple applications may meet the basic eligibility criteria, each property is different, and each potential easement will have strengths and weaknesses.

Some proposals may be more appropriate for funding based on how well they meet the selection criteria relative to applications received at the same time.

Final funding decisions will be based on the concurrence of the Director of the Department and the Chief Executive Officer of the High-Speed Rail Authority or their designee.

## Response Time

The Department seeks to provide tentative funding decisions within 90 days of receipt of a complete application. However, complexities associated with some applications may require additional review time and submission of additional documents. Please note that extended timing may become an issue if appraisals have been completed but other aspects of the application are incomplete. Early consultation with staff regarding proposed applications is strongly encouraged to achieve the most efficient review process possible.

## Approved Easement Applications

Each easement proposal receiving approval will be formalized with a Grant Agreement between the Applicant and the Department. Grant Agreements are based on a standard state format and have a maximum duration of two years from the time of Grant Agreement signature to completion of the easement acquisition. In most instances, the grant manager assigned at the proposal stage will also manage the Grant Agreement.

# Chapter 5: Evaluation and Award Process

## Application Evaluation

Applications will be evaluated and scored based on responses to the information requested in this solicitation. To evaluate applications, the Department will organize an Evaluation Committee that consists primarily of Department staff. The Evaluation Committee may use technical expert reviewers to provide an analysis of applications. Applications will be evaluated in two stages:

1. **Stage One: Application Screening**

The Department Evaluation Committee will screen applications for compliance with the Eligibility Criteria. **Applications that fail any of the Eligibility criteria will be rejected.**

1. **Stage Two: Application Scoring**

Applications that pass Stage One will be submitted to the Evaluation Committee for review and scoring based on the Selection Criteria.

* The points obtained from a review of the proposal relative to the Selection Criteria will serve as the application’s score.
* Clarification Interviews: The Evaluation Committee may conduct optional in-person or telephone interviews with the Applicant during the evaluation process to clarify and/or verify information submitted in the application. However, these interviews may not be used to change or add to the content of the original application. The Applicant will not be reimbursed for time spent answering clarifying questions.

## Ranking, Notice of Proposed Award, and Agreement Development

1. **Ranking and Notice of Proposed Award**

Prior to ranking, eligible applications will be placed into either Tier 1 (First Opportunity Landowners) or Tier 2 (all other applications). Eligible applications are then ranked within their tier.

If there are insufficient funds to award all eligible applications, those in Tier 1 will be awarded funds before those in Tier 2.

The Department will post a Notice of Proposed Award (NOPA) that includes: (1) the total proposed funding amount; (2) the rank order of Applicants; and (3) the amount of each proposed award. The Department will post the NOPA at its headquarters in Sacramento. The Department will also notify Applicants by mail of whether they were approved and for how much funding they were approved for.

The Department reserves the right to:

* Award multiple proposals from this RFGA.
* Negotiate with successful Applicantstomodify the project scope, schedule, and/or level of funding.

1. **Agreements**

Applications recommended for funding will be developed into a grant agreement. Recipients may begin the project only after full execution of the grant agreement, including signature by both the Applicant and the Department.

* **Resolution Requirement** ***(for government agency recipients only)*:** Prior to approval of the agreement at a review meeting, government agency recipients (e.g., federal, state, and local governments; air/water/school districts; joint power authorities; and state universities) must provide a resolution that authorizes the agency to enter into the agreement and is signed by a representative authorized to execute the agreement and all documents related to the award. Resolutions must include: (1) a brief description of the project; (2) the award amount; and (3) an acceptance of the award.
* **Agreement Development:** The Department will send the Recipient a grant agreement for approval and signature. The agreement will include the applicable terms and conditions and will incorporate this solicitation by reference. The Department reserves the right to modify the award documents (including the terms and conditions) prior to executing any agreement.
* **Failure to Execute an Agreement:** If the Department is unable to successfully execute an agreement with an Applicant, it reserves the right to cancel the pending award and to fund another eligible application.
* **Agreement Amendment:** The executed agreement may be amended by mutual consent of the Department and the Recipient. The agreement may require amendment as a result of project review, changes in project scope, and/or availability of funding.

## Grounds to Reject an Application or Cancel an Award

Applications that do not pass the screening stage will be rejected. In addition, the Department reserves the right to reject an application and/or to cancel an award if the following circumstances are discovered at any time during the application or agreement process:

* The application contains false or intentionally misleading statements or references that do not support an attribute or condition contended by the Applicant.
* The application is intended to erroneously and fallaciously mislead the State in its evaluation and the attribute, condition, or capability of this solicitation.
* The application does not literally comply or contains caveats that conflict with the solicitation, and the variation or deviation is material.
* The application does not contain sufficient information to enable a useful evaluation to be conducted.
* The Applicant has received unsatisfactory evaluations from the Department or another California state agency.
* The Applicant is a business entity that is not in good standing with the California Secretary of State.
* The Applicant has not demonstrated that it has the financial capability to complete the project.
* The proposal does not have all of the required attachments.
* The project date extends past the anticipated agreement end date specified in the “Key Activities Schedule”.

## Miscellaneous

1. **Solicitation Cancellation and Amendment**

The Department will not solicit applications unless there is a bona fide intention to award an agreement. However, if it is in the state’s best interest, the Department reserves the right to do any of the following:

* Cancel this solicitation;
* Revise the amount of funds available under this solicitation;
* Amend this solicitation as needed; and/or
* Reject any or all applications received in response to this solicitation.

If the solicitation is amended, the Department will post an addendum on the Department’s website. The Department will not reimburse Applicants for application development expenses under any circumstances, including cancellation of the solicitation.

1. **Modification or Withdrawal of Application**

Applicants may withdraw or modify a submitted application before the application deadline by sending an email to the Department’s Contracts Liaison. Applications cannot be changed after the date and time listed in “Key Activities Schedule”. An application cannot be “timed” to expire on a specific date. For example, a statement such as the following is non-responsive to the solicitation: “This application and the cost estimate are valid for 60 days.”

1. **Confidentiality**

Though the entire evaluation process from receipt of applications up to the posting of the NOPA is confidential, **all submitted documents will become public records** after the Department posts the NOPA or the solicitation is cancelled. **The Department will not accept or retain applications that identify any portion as confidential.**

1. **Solicitation Errors**

If an Applicant discovers any ambiguity, conflict, discrepancy, omission, or other error in the solicitation, the Applicant should immediately notify the Department’s Contracts Liaison of the error in writing and request modification or clarification of the solicitation. The Department will provide modifications or clarifications by written notice to all parties who requested the solicitation, without divulging the source of the request for clarification. The Department will not be responsible for failure to correct errors.

1. **Immaterial Defect**

The Department may waive any immaterial defect or deviation contained in an application. The Department’s waiver will not modify the application or excuse the successful Applicant from full compliance with solicitation requirements.

1. **Disposition of Applicant’s Documents**

Upon the posting of the NOPA, all applications and related materials submitted in response to this solicitation will become property of the state and public records.

# Chapter 6: Grant Administration

These grant administration guidelines are for general information and are subject to change.

## Funding and Accounting

1. Payment of Grant Funds

Only those actual and direct easement acquisition-related costs incurred during the approved term of the Grant Agreement and as specified in the Grant Agreement budget will be eligible for payment (see Eligible and Ineligible Cost table, page 12). All costs must be supported by appropriate invoices, purchase orders, canceled warrants/checks, and other approved documents.

Grant funds for the purchase of the easement will be deposited into an escrow account established with a title insurance company licensed by the California Department of Real Estate for disbursement of funds and recordation of the easement. If additional funds are being used to complete the easement purchase, they must all be deposited into the escrow account concurrent with funds from the Program. At close of escrow the title insurance company must be able to insure title to the interest being recorded.

Associated Costs (direct acquisition funds as identified in the Grant Agreement) will be paid on a reimbursement basis, after escrow has closed and all final documents are received. The stewardship fund amount will also be paid after the easement has been recorded with the county.

1. Accounting of Grant Funds

It is essential that complete and accurate records be maintained. Grant recipients must maintain an accounting and record keeping system that reflects sound fiscal controls and safeguards. The accounting information must be sufficient so that the total cost of the easement and related cost can be readily determined and records are readily available upon demand. Grant recipients must retain all grant transaction records for a period of three years after final payment is made by the state. (Note: This does not limit requirements for permanent record keeping of all easement, baseline reports, and monitoring-related documents.)

Grantees will be subject to regulations, applicable federal laws, policies and related administrative practices for contracts receiving federal funding through the American Recovery and Reinvestment Act of 2009 and the Federal Railroad Administration.

1. Accounting of Stewardship Funds

Each grant recipient will be required to certify that, as the stewardship fund holder, it uses accepted accounting practices as promulgated by either the Financial Accounting Standards Board or any successor entity for nonprofit organizations, or the Governmental Accounting Standards Board or any successor entity for public agencies, to the extent those practices do not conflict with any requirement for special districts in statute for local government financial affairs.[[2]](#footnote-2)

1. Auditing of Fund Expenditures

All expenditures of public funds under the Program are subject to audit by the Department of Conservation, the California Department of Finance and/or the Federal Railroad Administration.

All grant recipients shall maintain books, records, documents and other evidence sufficient to properly reflect the amount, receipt, and disposition of all easement acquisition-related funds (including state or federal funds, interest earned, and any matching funds by the grant recipient) as well as the overall acquisition cost.

## Organizational Considerations

1. Subcontractors

Grant recipients (grantees) may make use of their own staff and such subcontractor(s) as are mutually acceptable to the grantee and the Department. All contracts between the grantee and subcontractors are subject to approval of the Department. All subcontractors are governed by and must adhere to all provisions of the Grant Agreement. In the event that a change in subcontractor(s) is necessary, a written change request must be submitted to the grant manager, along with the justification for the change.

Subcontractor change requests are subject to approval by the Department and are formalized through either a grant amendment or written change order. Competitive bidding requirements apply to changes in subcontractors, please see below.

1. Competitive Bid Requirements

When purchasing goods or services with funding provided by the Program, grantees must comply with the state’s competitive bidding process if the subcontractor providing the good or service is not identified in the grant application. In the event a subcontractor is changed or added to those identified as subcontractors in the grant application, grantees must solicit and receive at least three bids for the good or service. Grantees shall purchase services from the lowest responsible bidder demonstrating the requisite expertise and experience, or pay the difference between the low bid and the one selected. This condition may be waived upon grant recipient certification that due to the unique nature of the service a sole source purchase is justified and the associated cost is reasonable.

1. Drug-Free Workplace Certification

Pursuant to the requirements of Government Code section 8355, grantees must sign a certification that a drug-free workplace will be provided.

1. Insurance

Grantees must obtain and keep Worker’s Compensation, commercial general liability, and automobile liability insurance policies compliant with specifications provided by the Department in force for the term of the Grant Agreement. The insurance specifications are included within the standard Grant Agreement template and posted on the Department’s web site. These policies shall cover any acts or omissions of the grantee or its employees engaged in the provision of service specified in the Grant Agreement.

1. Materials and Publicity

Any publicity surrounding a grant or easement funded under this Program should be discussed with the Department in advance. The landowners of properties placed under an easement should understand that their names may become public as the result of publicity events, news articles, or requests for public records. Coordination between the grantee, the Department, and the High-Speed Rail Authority on any publicity is greatly appreciated.

1. Available at <http://www.landtrustalliance.org/training/publications/topics#governance> [↑](#footnote-ref-1)
2. Government Code, outlining deposit of funds by local governments, commencing with section 63630. [↑](#footnote-ref-2)