Washington State Conservation Commission

Office of Farmland Preservation

Farmland Protection and Land Access (FPLA) Program Guidelines

Updated October 2023

Table of Contents

Section 1: Introduction

Agency Overview

The Washington State Conservation Commission (SCC) works to conserve natural resources on all lands in Washington state, through voluntary and incentive-based programs, in collaboration with conservation districts and other partners.

SCC is the coordinating state agency for all 45 conservation districts (CDs) in Washington State. Together, the SCC and CDs provide voluntary, incentive-based programs that empower people to practice conservation and ensure healthy natural resources and agriculture for all.

What We Do

- Provide financial and operational support and oversight to our state's 45 conservation districts.
- Design policy and program structures that can be customized to address site-specific natural resource conditions and landowner needs.
- Facilitate collaborative solutions that meet state natural resource priorities and work on the ground.

What We Believe In

Mission: To conserve natural resources on all lands in Washington state, through voluntary and incentive based programs, in collaboration with CDs and other partners.

Vision: Our state shall have healthy soils, water, air, and ecosystems, and sustainable human interaction with these resources, including viable agriculture and forestry. The SCC and CDs are recognized as trusted partners who promote voluntary stewardship and accomplish natural resource goals.

Values

- **Sustainability:** We envision a future with healthy, diverse landscapes – including viable working lands – voluntarily supported by informed resource stewards.
- **Relationships:** We foster strong partnerships with a diversity of stakeholders and maintain open communication and transparency to create trust.
- **Knowledge:** We value local knowledge, diverse cultures, and ideas. We strive to offer voluntary, collaborative solutions that reflect state, local, and community priorities.
- **Accountability:** We employ clear policies, procedures, and performance measures that ensure effective, efficient use of public resources.
- **Respect:** We exhibit personal and institutional integrity for agency members and staff, conservation districts, and our partners.
- **Diversity, Equity, and Inclusion:** We commit to inclusion across gender, race, age, religion, accessibility, identity, veterans status, neurodiversity, and experience to have a culture where all feel included and valued. We believe that diversity drives innovation and our work should reflect the diversity of people across Washington State. We strive to remove barriers that impact equity in our programs and agency.

Agency Structure

SCC consists of a 10-member governing board representing Governor appointees, other state agencies, and conservation districts. Our staff carries out the direction of the board, provides direct service to CDs, and coordinates the work of the Commission and CDs with other natural resource and agricultural partners. While our headquarters office is located in Lacey, we have agency staff in communities around the state.

Who sits on the SCC Board of Commissioners?

- Four commissioners are appointed to represent state partners (Department of Ecology, Department of Agriculture, Department of Natural Resources, and Washington State University).
- Two commissioners are appointed by the Governor.
- Three commissioners are current CD board supervisors elected to serve on the Commission by members of the Washington Association of Conservation Districts (WACD).
- One commissioner is the WACD President.

Office of Farmland Preservation Overview

Directed by **RCW 89.10.010** and housed within SCC, the Office of Farmland Preservation (OFP) works to address the loss of agricultural land in Washington. OFP purchases and funds agricultural conservation easements, assists local governments and organizations as they develop and implement measures to retain agricultural land, provides resources to assist with the transition of farmland and farm businesses from one generation to the next, and provides data and analysis on trends impacting farmland in Washington.

Program Overview

The Farmland Protection and Land Access (FPLA) program was established via proviso in the Washington State 2022 Supplemental Capital Budget (SSB 5651, Section 3050) within OFP. Initially funded at $2 million, the program received a second appropriation of $4 million in the 2023-2025 Capital Budget (ESSB 5200, Section 3081). FPLA serves the dual purpose of permanently protecting high-quality farmland and facilitating access to land for next generation farmers and ranchers.

FPLA prioritizes projects that conserve high-priority agricultural land at imminent risk of development and that support land access for historically underserved producers as defined in 7 24 C.F.R. Sec. 1470.3 (2022), including young and beginning farmers, people of color, and veterans.

FPLA complements the “Buy-Protect-Sell” category of **FarmPAI**, a program of the Washington State Housing Finance Commission. FarmPAI provides conservation entities with low-interest loans for the fee-simple acquisition of at-risk farmland. FPLA grants fund the purchase of an agricultural conservation easement. The agricultural conservation easement ensures the land stays open and available for farming in perpetuity. By restricting or removing certain development rights that are incompatible with agriculture, FPLA funded agricultural conservation easements make farmland more affordable for the future farm owner.

Used in conjunction with FarmPAI, the FPLA program will result in the permanent protection of high-quality farmland at imminent risk of development and facilitate transfer to the next generation farmer.

Definitions

In line with the original funding proviso from 2022, FPLA seeks to support land access for "historically underserved producers" including young and beginning farmers, people of color, and veterans. The following definitions of "historically underserved producers" are derived from 7 24 C.F.R. Sec. 1470.3 (2022) with additional detail where noted provided by the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Outreach and Advocacy definitions.

Beginning farmer or rancher means a person or legal entity who:

1) Has not operated a farm, ranch, or nonindustrial private forestland (NIPF) or who has operated a farm, ranch, or NIPF for not more than 10 consecutive years. The requirement in this paragraph (1) applies to all members of a legal entity who will materially and substantially participate in the operation of the farm or ranch.
2) In the case of a contract with an individual, individually, or with the immediate family, material and substantial participation requires that the individual provide substantial day-to-day labor and management of the farm or ranch, consistent with the practices in the county or State where the farm is located.
3) In the case of a contract with a legal entity or joint operation, all members must materially and substantially participate in the operation of the farm or ranch. Material and substantial participation requires that each of the members provide some amount of the management or labor and management necessary for day-to-day activities, such that if each of the members did not provide these inputs, the operation of the farm or ranch would be seriously impaired.

In the case of a contract made with a legal entity, all members must meet these requirements.

Historically underserved producer means a person, joint operation, legal entity, or Indian Tribe who is a beginning farmer or rancher, socially disadvantaged farmer or rancher, limited resource farmer or rancher, or veteran farmer or rancher.

Limited resource farmer or rancher means:

1) A person with direct or indirect gross farm sales not more than the current indexed value in each of the previous two fiscal years (adjusted for inflation using "prices paid" by the Farmer Index as compiled by the National Agricultural Statistical Service); and
2) Has a total household income at or below the national poverty level for a family of four, or less than 50 percent of county median household income in each of the previous two years (to be determined annually using Department of Commerce data).
3) A limited resource farmer or rancher also includes a legal entity or joint operation if all individual members independently qualify under paragraphs (1) and (2) of this definition.

A self-determination tool is available to the public and may be completed on-line or printed and completed hardcopy at **https://lrftool.sc.egov.usda.gov**/.

Socially disadvantaged farmer or rancher means a producer who is a member of a group whose members have been subjected to racial or ethnic prejudices without regard to its members' individual qualities. The USDA NRCS further defines **socially disadvantaged** as an individual or entity who is a member of a socially disadvantaged group. A socially disadvantaged group is a group whose members have been subject to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities. Socially disadvantaged groups consist of the following:

- American Indians or Alaskan Natives
- Asians
- Blacks or African Americans
- Hispanics
- Native Hawaiians or other Pacific Islanders

For an entity, at least 50 percent ownership in the farm business must be held by socially disadvantaged individuals.

Note: Gender alone is not a covered group for the purposes of NRCS conservation program authorities. The term entities reflect a broad interpretation to include partnerships, couples, legal entities, etc.

Veteran farmer or rancher means a producer who meets the definition in section 2501(a)(7) of the Food, Agriculture, Conservation, and Trade Act of 1990, as amended (**7 U.S.C. 2279**). 7.U.S.C. 2279 defines veteran farmer or rancher as a farmer or rancher who has served in the Armed Forces (as defined in SECTION 101(10) OF TITLE 38) and who—

(A) has not operated a farm or ranch;

(B) has operated a farm or ranch for not more than 10 years; or

(C) is a veteran (as defined in section 101 of that title) who has first obtained status as a veteran (as so defined) during the most recent 10-year period.

A legal entity or joint operation can be a Veteran Farmer or Rancher only if all individual members independently qualify.

Section 2: General Policies

Grant and Contract Policy and Procedure Manual

Unless explicitly stated in these program guidelines, applicants must follow policies and procedures established in SCC's **Grant and Contract Policy and Procedure Manual.**

Eligible Applicants

To be eligible to apply for FPLA, applicant entities must be qualified to hold conservation easements under **RCW 64.04.130** or **RCW 89.08.220** and either have secured a loan through the "Buy-Protect-Sell" category of FarmPAI or be working in partnership with an entity that has secured a loan through FarmPAI on the property proposed for protection.

Cultural Resources Review

Per the **SCC Cultural Resources Review Process** instructions, applicants must determine what process to use based on the funding mix and location of their project:

1) If federal funds are involved or the project is on Federal or Tribal land, the Section 106 federal review process should be followed. Make sure that it happens and document that on the cultural review complied statement form (form available at the SCC website: **https://www.scc.wa.gov/cd/cultural-resources**).
2) If Section 106 is not indicated and non-SCC state funds are involved, the other agency process can be followed. Make sure that it happens and document that on the cultural review complied statement form.
3) If SCC is the only state funder and the project is not on Tribal or Federal land then the SCC review process should be used. Per the **SCC Cultural Resource Review Process**, no cultural resource review would be required.

Property Environmental Audit

Acquisitions that are awarded FPLA funding will be required to demonstrate that the subject property has been assessed for hazardous substances risk prior to closing of the easement and release of the funds from SCC. The following documentation will be considered satisfactory to meeting this requirement:

1) A Phase 1 Environmental Assessment report prepared by a qualified consultant; OR
2) Completed Property Assessment Checklist and Hazardous Substances Certification forms from RCO Manual 3_Acquisitions (included as templates in these Guidelines under Attachment A).

Section 3: Application Process

Application Timeline

The 2025-2027 FPLA grant cycle will open Jul. 1, 2025 if funds are allocated via 2025-2027 Capital Budget appropriation. SCC will accept applications on a rolling basis until all funds have been expended.

Selection Process

The FPLA Work Group will review and recommend projects based on the following criteria:

Eligibility Criteria

A. Applicant entity must be qualified to hold conservation easements under RCW 64.04.130 or RCW 89.08.220; *and*
B. Have secured a loan through the Buy-Protect-Sell category of FarmPAI; *or*
C. Be working in partnership with an entity that has secured a loan through FarmPAI.

Prioritization Criteria

A. Has the applicant identified a historically underserved producer, young or beginning farmer, person of color, or veteran as the future farm owner?
B. What is the threat of conversion out of agriculture if the easement is not secured?
C. What is the opportunity for new or continued natural resource investments on the property?

The FPLA Work Group may include but is not limited to SCC staff and representatives from the following agencies or organizations: Washington State Housing Finance Commission, American Farmland Trust, Washington State Department of Agriculture, and Washington State University Extension. The FPLA Work Group may develop ground rules for operating procedures.

Once the FPLA Work Group recommends a project for funding, SCC Commissioners will consider the project for approval for funding at a noticed business meeting.

Submitting an Application

All proposals must be entered into a **Formstack application** and contain a detailed description of the project and budget.

Budget Elements

The following budget items must be included in the budget document uploaded in the Formstack application.

PROJECT NAME:			
Budget Categories	**FPLA Request**	**Match Funding***	**Total**
Project Costs:			
Appraisal			
Appraisal Review			
Baseline Documentation			
Boundary line adjustments			
Environmental Audits			
Farm or Stewardship Plan			
Survey			
Cultural Resources			
Projects Costs Sub-Total	**$0**	**$0**	**$0**
Acquisition Costs:			
Easement Purchase Price			
Closing, Recording, Taxes, Title			
Acquisition Costs Sub-Total	**$0**	**$0**	**$0**
Administrative Costs			
Administrative Costs (includes Overhead as 25% of Salaries and Benefits)			
Total Project Budget	**$0**	**$0**	**$0**

*Match funding is not required.

To download this budget sheet in a word or pdf version, visit https://www.scc.wa.gov/programs/fpla.

Section 4: Eligible Costs, Reimbursement Process, and Record Requirements

FPLA funding may be used to purchase an agricultural conservation easement and to cover the related acquisition costs. FPLA funding does not require match funding.

SCC Grants and Contracts Policies

Unless explicitly stated in these guidelines, all policies and procedures established in the SCC Grant and Contract Policy and Procedure Manual must be followed.

Costs incurred prior to an executed contract with the SCC are not eligible for reimbursement. The FPLA Guidelines allow for one exception to this rule regarding eligible appraisal costs that were incurred pre-contract for acquisitions later funded by FPLA. SCC holds the sole discretion to determine eligibility of any such request according to the criteria below.

Eligible Costs Include:

- Agricultural conservation easement appraisal and review appraisal
- Property or building envelope surveys
- Easement purchase price (not to exceed fair market value as determined by an appraisal and review appraisal)
- Real estate excise taxes due at closing, title reports and insurance, recording fees. SCC will not pay for delinquent taxes due on the property at the time of closing.
- Environmental audit (e.g. Phase I and Phase II assessments)
- Cultural resources assessment
- Baseline documentation
- Farm or stewardship plan, not to exceed $10,000
- Boundary line adjustments
- Administrative costs (including applicant legal expenses, travel, staff time and Overhead*), not to exceed $50,000 unless approved by the SCC Executive Director or their designee
    - **Overhead costs, not to exceed 25% of Salaries and Benefits and as specified in the terms of the grant contract*
- In certain circumstances, a cost associated with the fee-simple acquisition of an FPLA transaction may be an eligible cost, if the cost is:
    a) not covered through FarmPAI or other funding sources; **and**
    b) the cost is necessary to facilitate the FPLA transaction; **and**
    c) the cooperating entity shows a clear nexus between the cost and the FPLA transaction.

Pre-Contract Appraisal Costs

In certain circumstances, SCC may review and approve at their sole discretion reimbursement of a pre-contract appraisal and review appraisal expense for an FPLA-funded easement acquisition that meets the following criteria:

1) The appraisal/review appraisal was conducted exclusively in support of completing the valuation of a Buy Protect Sell FarmPAI and FPLA funded project; **and**

2) The appraisal's date of value is not greater than 12 months prior to the date of the FPLA award; **and**

3) The appraisal/review appraisal is in compliance with the FPLA Program Guidelines' requirements for the "Appraisal Shelf Life and Appraisal Updates" outlined below (pg 15); **and**

4) One of the following is true

   a. Completion of the appraisal/review appraisal ahead of the FPLA award was necessary for determining the feasibility of the Buy Protect Sell acquisition strategy, including decisions to proceed with entering into a FarmPAI loan or to determine easement fundraising strategy; **or**

   b. Completion of the appraisal/review appraisal ahead of the FPLA award was necessary to achieve efficiency of timing and cost through a joint appraisal of the Buy Protect Sell fee and easement acquisitions.

Eligibility of parcels not acquired with a FarmPAI loan

To be eligible to apply for FPLA, applicant entities must be qualified to hold conservation easements under **RCW 64.04.130** or **RCW 89.08.220** and either have secured a loan through the "Buy-Protect-Sell" category of FarmPAI or be working in partnership with an entity that has secured a loan through FarmPAI on the property proposed for protection. In limited circumstances, FPLA may be able to pay for an agricultural conservation easement on parcels that are part of an overall Buy-Protect-Sell transaction where some but not all parcels were purchased through a FarmPAI loan.

> **Example**: A farm consists of two parcels: Parcel A and Parcel B. A land trust received a FarmPAI loan to purchase Parcel A and plans to apply to FPLA for an ag easement on Parcel A. The future farm buyer of Parcel A already owns Parcel B but Parcel B does not have an easement. Using FPLA funds to purchase easements on Parcels A and B would ensure the farm remains intact and protected and would allow the farmer to use the proceeds from the easement sale on Parcel B towards the acquisition of Parcel A which would result in the repayment of the FarmPAI loan.

Funding Availability

FPLA is allocated funding via Capital Budget appropriations that must be expended by the end of the respective biennium (June 30th of the second biennium year). As a result, FPLA funded easements must close and grant agreements be closed out before June 30th of the second year of the biennium in which the FPLA award is made ("closing date"). If the project is not completed by this biennium closing date, applicants may be eligible to apply for a one-time extension if funding is available through reappropriation.

Cost Increases

Any cost increases beyond the budgeted amount will be addressed on a case-by-case basis in consideration of available funds.

Grant Limits and Match Requirement

There is no minimum or maximum grant amount. The applicant is not required to bring match funding to the transaction except. The applicant is responsible for ineligible costs. SCC does not need documentation of ineligible costs.

Method of Grant Payment

Payment to Escrow

The following costs are eligible for payment directly to escrow by SCC:

- Easement purchase price
- Taxes due at closing (compensating, excise and pro rata taxes), title reports and insurance, and recording fees. SCC will not pay for delinquent taxes due on the property at the time of closing.

Reimbursable Costs

All other eligible costs (as outlined under "Eligible Costs" under Section 4) are eligible for reimbursement only from SCC. The FPLA applicant may request reimbursement only after paying employees and vendors for reimbursable costs. SCC will not pay more than the FPLA applicant's out-of-pocket costs. SCC will not pay for any costs that have been paid or will be paid by another funding source such as the FarmPAI program. Reimbursement shall not be approved for any donations, including donated land.

The FPLA applicant is required to provide the following documentation to the OFP Coordinator, and the SCC Director of Accounting and Budget before the SCC will release funding to escrow.

a) Appraisal
b) Review Appraisal
c) Baseline Documentation including site-specific map and general vicinity map
d) Completed Property Environmental Audit Documentation as described under Section 2
e) Title Commitment with Legal Description
f) Final Conservation Easement Deed Language
g) Purchase and Sale Agreement
h) Buyer's Estimated Settlement Statement
i) Mortgage subordination agreement for recording, if applicable
j) Copy of the closing instructions to escrow, which include the instruction to record an executed mortgage subordination agreement as a prerequisite to the easement recording, if applicable

Requests for escrow closing funding must be made in writing and submitted directly to SCC Contract Manager and SCC Director of Accounting and Budget. The written request must allow **30 days BEFORE** the intended closing date to ensure SCC has the proper time allowance to work with the Office of the State Treasurer (OST) to prepare wire(s). Information needed in the request must include:

a) Exact funding amount needed
b) Date needed
c) Name of the entity needing to be paid directly,
    a. bank name,
    b. ABA or routing number,
    c. name of the account owner,
    d. account number,
    e. effective settlement date (and any other wire instructions pertinent such as property address).

After closing, the easement holder is required to:

a) Provide notice via email to OFP Coordinator, SCC Director of Accounting and Budget, and SCC Contract Manager within 5 business days of closing.
b) Provide an electronic copy of the recorded conservation easement. If SCC is a third party beneficiary, the land conservation entity must provide annual monitoring reports.

Record Keeping and Audits

The easement holder must retain a complete set of all documents and records pertaining to the purchase of a conservation easement using FPLA funding pursuant to the applicable records retention schedule. See the most recent version of the "State Government General Records Retention Schedule **here**."

All records relevant to projects funded by FPLA must be on file with the grant applicants and are subject to audit by the State and inspection by SCC. If the auditor's inspection of the records discloses any charges incorrectly claimed and reimbursed, cash restitution of the incorrect amount must be made to SCC.

Appraisal Requirements

Appraisals must be performed by licensed appraisers, must value the exact property rights being acquired, and must be reviewed by a second licensed appraiser.

Just Compensation

SCC determines just compensation to landowners based on appraisals and reviews of those appraisals. The project sponsor first contracts for an appraisal of the property to determine the market value of the property. Secondly, the project sponsor contracts for an independent review of the appraisal to confirm the market value identified in the appraisal. The Purchase and Sale Agreement for the FPLA funded agricultural conservation easement must reference the appraised value in order to provide notice of just compensation to the seller.

Appraisal and Review Appraisal Standards

There are two forms of acceptable appraisal and review appraisal standards depending upon the source of funding for the acquisition project. For projects funded with state money, the project sponsor must instruct the appraiser and review appraiser to use the standards set forth in the Uniform Standards of Professional Appraisal Practice (USPAP) publication. The appraised market value of the property must be a point value, rather than a value range. (Example: $257,000 rather than $240,000 to $270,000). If a federal funding source requires the applicant to follow the Uniform Appraisal Standards for Federal Land Acquisitions (aka Yellow Book), SCC will accept appraisals prepared to these standards.

Extraordinary Assumptions and Hypothetical Conditions

All appraisal reports include a statement of assumptions and limiting conditions. In addition, an appraisal may include extraordinary assumptions or hypothetical conditions upon which the appraiser based the market value of the property. Project sponsors should avoid the use of extraordinary assumptions or hypothetical conditions unless consistent with the uniform appraisal standards. If the appraiser uses extraordinary (special) assumptions or hypothetical conditions, the appraiser must clearly state these within the report and must provide a reasonable justification for using them. Additionally, the review appraiser must list all extraordinary assumptions and hypothetical conditions and comment on their reasonableness. If the findings are that the assumptions or conditions are not reasonable, the value of the land may not be supported. SCC may not accept the appraisal and require a new appraisal without unsupported assumptions and conditions.

Encumbrances

When determining the property’s market value, the appraiser and review appraiser must consider encumbrances and reservations that will be on the property as it is finally to be conveyed, which may be different than characterized on the preliminary title report. The project sponsor must provide the appraiser and review appraiser with the preliminary title report and the encumbrance documents. In addition, the project sponsor must inform the appraiser of any changes on title to be made up to closing, including encumbrances that will be cleared and any new encumbrances or reservations that are to be created (except for SCC’s Deed of Right).

SCC may require supplemental information or an appraisal update before reimbursement or the release of escrow funds if the original report does not reflect accurately the encumbrances in place at the time of conveyance.

Appraisal Report Formats

The Uniform Standards of Professional Appraisal Practice requires an appraisal report for all appraisal assignments. SCC requires additional documentation beyond the standard Uniform Standards of Professional Appraisal Practice appraisal report for certain appraisal problems as described below. In all appraisals using the sales comparison approach, the appraiser shall include a comparable sales adjustment table. SCC has included these requirements to ensure the accountability and transparency of the public’s investment.

Appraisals must be reported in a fully self-contained appraisal report format to exceed the requirements outlined in the most current “Uniform Standards of Professional Appraisal Practices.” The report must describe in detail the information analyzed and the reasoning and methodology that supports any analyses, opinions, and conclusions. The report will be subject to review and the appraiser will be required to clarify any issues in writing. Failure to do so may result in the report being considered unacceptable.

Appraisal Shelf Life and Appraisal Updates

Appraisals are considered valid for one year from the effective or valuation date of the appraisal. Sponsors must either purchase the property or have a signed Purchase and Sale Agreement within one year of the effective date of the appraisal. If the property is not acquired or a Purchase and Sale Agreement is not secured within one year of the effective date of the appraisal, the project sponsor must obtain a new appraisal statement from the appraiser stating that land values have not changed and the appraised value is the same since the effective date of the appraisal. If the appraiser cannot or will not provide such a statement, the project sponsor must obtain an appraisal update. Costs associated with the appraisal statement may be reimbursed by SCC. The shelf life of an appraisal for any state-funded grant project may not exceed 18 months under any circumstances.

An appraisal update is a new appraisal assignment to the original appraiser that incorporates information and analysis from the original report to get a more current market value. A review appraisal is required for all appraisal updates. Appraisal and review appraisal updates may be reimbursed by SCC. An appraisal update obtained within 24 months of the original appraisal effective date is not considered a new appraisal. For SCC reimbursement purposes, appraisal updates after 24 months are acceptable to determine the market value, but will not be an eligible cost for reimbursement.

Appraisal Reviews

Independent appraisal reviews are required for all appraisals to confirm just compensation for the property. If the original appraisal relies on a timber cruise, other special reports, or research to establish property value, those also must be reviewed. Appraisal reviews must include the following:

- Field inspections of the property and comparable sales when the appraisal sets the property value of the acquisition project at $250,000 or higher. Desk reviews are acceptable for properties having a value less than $250,000.
- The review appraiser must comment on whether the following conditions are met:
    - The appraisal is complete within the scope of work applicable and the appraisal assignment.
    - The appraisal meets applicable appraisal standards.
    - The appraiser’s extraordinary assumptions are reasonable and justified.
    - The appraiser’s hypothetical conditions are reasonable and justified.
    - The appraiser’s consideration of encumbrances was satisfactory.
    - The appraiser’s data and adjustments are adequate and relevant.
    - The appraiser’s methods and techniques are appropriate.
    - The appraiser’s analysis, opinions, and conclusions are reasonable.
- The review appraiser must approve or reject the value conclusion in the original appraisal.
    - If the review appraiser approves the market value established in the original appraisal, they either can acknowledge that the appraisal meets the SCC appraisal guidelines or do the necessary work to bring the original appraisal into compliance. The confirmed market value is the final just compensation for the property.

- If the review appraiser rejects the value established in the original appraisal, the project sponsor must either instruct the review appraiser to establish a new property value or obtain a new appraisal. The new property value then becomes the just compensation for the property. If the review appraiser previously had conducted a desk review of the property and now is working to establish a new property value, the review appraisal must take the form of a field review.

Third-Party Appraisals

The appraisal and review appraisal must be procured on behalf of the project sponsor. The appraisal and review appraisal may not be procured on behalf of the landowner or other third party with an interest in the sale unless approved by SCC in advance. If the project sponsor is partnering with a third party (e.g. another organization that is assisting with negotiating the transaction, co-holding rights, or holding third-party rights), then the appraisal and appraisal review may be procured on behalf of and authorized by the project sponsor and the third party. The project sponsor must be listed as an intended user of the appraisal.

Appraiser and Review Appraiser Qualifications

Chapter 18.140 Revised Code of Washington, Certified Real Estate Appraiser Act, establishes four certification or license categories.

- State-certified general real estate appraiser (license number begins with 270- 11): Eligible to develop and communicate real estate appraisals of all types of properties.
- State-certified residential real estate appraiser (license number begins with 270-17): Eligible to develop and communicate real estate appraisals of all types of residential property of one to four units without regard to transaction value or complexity and nonresidential property having a transaction value less than $250,000.
- State licensed real estate appraiser (license number begins with 270-16): Eligible to develop and communicate real estate appraisals of noncomplex, one to four residential units having a transaction value less than $1 million; complex, one to four residential units having a transaction value less than $250,000; and nonresidential property having a transaction value less than $250,000.
- State registered appraiser trainee (license number begins with 100): Eligible to assist certified real estate appraisers while gaining experience. The appraisal or review appraisal also must be signed by a certified real estate appraiser.

Project sponsors must select an appraiser and review appraiser with appropriate certifications or licenses from Washington State to perform appraisal work, unless the appraisal review is conducted by the Natural Resources Conservation Service (NRCS) for a Farmland Preservation Category project. Review appraisers must have an equal or greater license certification than the original appraiser and cannot be selected from the same firm, organization, or agency/sponsor who conducted the original appraisal. Project sponsor staff may perform appraisals or review appraisals if they meet the state licensing requirements. Project sponsor staff may not conduct both the appraisal and appraisal review on the same property. If a staff person is conducting appraisal work on behalf of the project sponsor, he/she may communicate with the independent appraiser in the role as an appraiser, not as the client or the intended user of the appraisal. A staff person functioning as a negotiator with a property owner may not supervise or formally evaluate the performance of any appraiser or review appraiser.

Appraisal Costs

Only one appraisal and one review appraisal for each property is eligible. SCC may approve the cost for a new appraisal and review appraisal on a case-by-case basis in advance. The project sponsor must submit a written request to approve reimbursement for a new appraisal and review that includes adequate justification as to why the new work is required.

Section 5: Easement Terms and Requirements

Easement Review and Approval by SCC

Applicants are required to submit the conservation easement draft to OFP for review and approval a minimum of 45 days prior to anticipated closing.

Easement Monitoring

Easements must be monitored by the easement holder or their designee for compliance on an annual basis. Annual monitoring reports must be submitted on an annual basis via email to the OFP. Applicants may use the **SCC Monitoring Report** template or their own monitoring template if it incorporates the same information as the SCC Monitoring template. If an applicant chooses to use their own template, it must be approved by OFP.

Easement Terms

Base Easement

Applicants are required to use either the NRCS ACEP-ALE **Minimum Deed Terms** or the RCO **Agricultural Conservation Easement template**.

Farm or Stewardship Plan

Easements must include a provision requiring the existence of a farm or stewardship plan. The farm or stewardship plan must be updated when there is a significant change in production practices or in farm ownership.

Third-Party Right of Enforcement

A qualified government entity is required to hold a third-party right of enforcement on FPLA funded easements. SCC will hold the third-party right unless an alternative third party is identified and agreed on by all parties. The third-party beneficiary must sign the easement document. Project applicants must submit the draft language to SCC for approval before executing the easement.

Affordability Provisions

Applicants are encouraged to consider including affordability provisions in the easement to support continued agricultural production.

Variances

Requested variances to these documents may be granted on a case-by-case basis. Applicants should be aware variances may extend the time required for completion of the easement. SCC reserves the right to propose additional easement terms based on the variance requested.

Attachment A: Template Property Assessment Checklist & Hazardous Substances Certification forms

Property Assessment Checklist

Property Assessment Checklist for Hazardous Substances Certification

Date: **Property Name:**

Legal Description: **Co. Parcel #**

Street Address

I. Land Use - Subject Property		II. Land Use - Adjacent Properties		III. Public Records	
Use	Yes No Unk	Use	Yes No Unk	List/Agency Action	Yes No Unk
Commercial/industrial	( ) ( ) ( )	Commercial/industrial	( ) ( ) ( )	Federal superfund	( ) ( ) ( )
Dryland agriculture	( ) ( ) ( )	Dryland agriculture	( ) ( ) ( )	Ecology haz sites list	( ) ( ) ( )
Forest	( ) ( ) ( )	Forest	( ) ( ) ( )	Ecology leaking UST list	( ) ( ) ( )
Grazing	( ) ( ) ( )	Grazing	( ) ( ) ( )	Ecology UST list	( ) ( ) ( )
Irrigated agriculture	( ) ( ) ( )	Irrigated agriculture	( ) ( ) ( )	Ecology enforcement	( ) ( ) ( )
Residential	( ) ( ) ( )	Residential	( ) ( ) ( )	County dumps/landfills	( ) ( ) ( )
Vacant undeveloped	( ) ( ) ( )	Vacant undeveloped	( ) ( ) ( )	County enforcement	( ) ( ) ( )
Other	( ) ( ) ( )	Other	( ) ( ) ( )	Fire district response	( ) ( ) ( )
Comment:		Comment:		Comment:	

IV. Field Inspection

Risk Indicators	Yes No Unk	Risk Indicators	Yes No Unk	Risk Indicators	Yes No Unk
Abandoned equipment	( ) ( ) ( )	Chemical spills	( ) ( ) ( )	Off site water discharge	( ) ( ) ( )
Above ground tanks	( ) ( ) ( )	Chemigation/fertigation	( ) ( ) ( )	Oil used for dust control	( ) ( ) ( )
Attractive	( ) ( ) ( )	Discolored soils	( ) ( ) ( )	Piles of "unknowns"	( ) ( ) ( )
nuisances/hazards	( ) ( ) ( )	Distressed vegetation	( ) ( ) ( )	Pilings, docks, wharfs	( ) ( ) ( )
Buildings	( ) ( ) ( )	Electrical equipment	( ) ( ) ( )	Pits, ponds, lagoons	( ) ( ) ( )
• Asbestos	( ) ( ) ( )	Excavations/fills	( ) ( ) ( )	Railroads	( ) ( ) ( )
• Fiberglass	( ) ( ) ( )	Flood hazard	( ) ( ) ( )	Under ground tanks	( ) ( ) ( )
• Hazardous condition	( ) ( ) ( )	Foundations	( ) ( ) ( )	Unstable soils/slopes	( ) ( ) ( )
• Lead	( ) ( ) ( )	Garbage dumps	( ) ( ) ( )	Water sheens	( ) ( ) ( )
• Urea formaldehyde	( ) ( ) ( )	Hazmat use, storage, dumping	( ) ( ) ( )	Wells	( ) ( ) ( )
Burn piles	( ) ( ) ( )	Manholes, fill pipes, drains	( ) ( ) ( )	Other	( ) ( ) ( )
Chemical filling areas					

Comment (Note: attach additional comments, map and photographs):

V. Conclusion and Recommendation

( ) No Apparent Risk There is no apparent liability to the department, or it presents an acceptable level of risk, as explained below.

( ) Low Level of Risk that can be Mitigated There is a risk level that can be avoided if certain actions are taken or conditions met, as explained below.

( ) Risk needs Further Investigation There is a potential or known risk that needs a Phase 1 environmental assessment completed, as explained below.

( ) High Risk There is a potential or known risk that outweighs benefit to the department, as explained below.

Rationale: I reviewed the following documents/undertook the following actions in arriving at the above conclusion: ( ) Aerial photographs; ( ) Title search; ( ) Public Records; ( ) Personal interview (who?)________________________; ( ) Site inspection; ( ) Other__________

Comment:

Signed Title Date

Page 127

Manual 3, Acquisition Projects • August 2018

Appendix L: Hazardous Substances Certification

The _________ *[insert project sponsor name]*, as the recipient of funding assistance specified in RCO Project Agreement #______ *[insert RCO project number]* titled ________ *[insert project name]* does hereby give assurance that it does not know and has no reason to know that any hazardous substance, the release or threatened release of which has resulted in or contributed to the need for remedial action, was released or disposed of, in or at the _______ *[insert property name]* property or properties that are included in the above-referenced Project Agreement. The ________ *[insert project sponsor name]* further warrants that it has obtained representations and warranties concerning the environmental condition of the property from the seller and has inspected the property to the scope and extent described in the attached (check applicable):

- ☐ *Environmental Site Assessments per American Society for Testing and Materials (ASTM) standards*
- ☐ *All Appropriate Inquiries per U.S. Environmental Protection Agency standards, or*
- ☐ *RCO Property Assessment Checklist [provided in Appendix M].*

____

Signature of Project Sponsor

____

Title

____Date