

## **Part 531 – Regional Conservation Partnership Program Manual**

### **Subpart C – Proposal and Programmatic Partnership Agreements**

#### **531.20 General**

A. This subpart provides policy related to project proposal and programmatic partnership agreement (PPA) development, including negotiation, execution, and amendment. See National Instruction (NI) 440-316, “Guidance for Regional Conservation Partnership Program (RCPP) Programmatic Partnership Agreements,” for additional guidance on negotiating, executing, and implementing PPAs.

B. Delivering Assistance Through Partnership

- (1) RCPP requires coordination between NRCS and its partners to deliver conservation assistance to producers, landowners, and communities.
- (2) State RCPP coordinators must provide guidance and assistance to applicants and lead partners throughout program implementation, including the outcomes assessment process to optimize program success.
- (3) NRCS will—
  - (i) Provide information, outreach, and training to potential partners on notices of funding opportunity (NFOs) to guide proposal development.
  - (ii) Respond to partner inquiries and requests for information during the proposal development.
  - (iii) Initiate and coordinate PPA negotiations with lead partners after project selections are announced.
  - (iv) Manage available RCPP funding in accordance with applicable PPA deliverables and objectives for that project once a PPA is executed.
  - (v) Work closely with lead partners during the PPA term to ensure the PPA remains current, execute associated supplemental agreements (SAs), and monitor both NRCS and partner progress in implementing their respective responsibilities under the PPA.
  - (vi) Ensure timely completion of producer contracts and SAs.
  - (vii) Ensure RCPP funded activities, and contributions which would not occur but for the RCPP project, are planned, designed, and installed in accordance with applicable RCPP requirements, including NEPA and associated requirements.
- (4) PPA deliverables establish RCPP fund availability by activity (i.e., land management (LM), rental, U.S.-held easements, entity-held easement, and watersheds/public works) and contract type (i.e., program contract, SA, third-party NRCS contract). See NI-440-316.1, “Guidance for Regional Conservation Partnership Program (RCPP) Programmatic Partnership Agreements,” exhibit 1 – FB18 Chart of Activity Type Features.
- (5) Independent of NRCS program contracts, partners may deliver contributions through partner contracts with producers. Lead partners are responsible for these contributions.
- (6) In Alternative Funding Arrangement (AFA) projects, lead partners are responsible for delivering financial assistance (FA).

#### **531.21 Partner Project Proposal**

A. Partner applicants submit a proposal following the guidance in this section and the applicable NFO. Successful RCPP applicants will bring an array of financial and technical capabilities to projects, demonstrate experience working effectively and collaboratively with producers across the landscape, and propose innovative, sustainable, and measurable approaches to achieving compelling conservation goals.

B. An RCPP proposal must include—

- (1) The scope of the proposed project and how it addresses NRCS resource concerns and proposal review criteria provided in the applicable NFO;
- (2) A plan for monitoring, evaluating, and reporting on project outcomes;
- (3) The RCPP funding amount being requested;
- (4) The funding pool under which the eligible partner is submitting the proposal (i.e., State or multistate, or critical conservation area);
- (5) Identification of each eligible partner collaborating to achieve project objectives, including their roles, responsibilities, capabilities, and contributions; and
- (6) Other information NRCS may identify in the NFO as necessary to evaluate and select proposals.

C. Format and Instructions

- (1) RCPP proposals must be submitted in accordance with the applicable NFO by the announced deadline. See subpart U, exhibit 531.204E, “RCPP Portal User Guide,” of this manual, available on the RCPP coordinator SharePoint, for assistance navigating to or within the NRCS Programs Portal.
- (2) NFOs encourage potential applicants to contact the appropriate State RCPP coordinator(s) during proposal development. The RCPP funding model depends on close coordination and collaboration between partners and NRCS to achieve project success. Communication with RCPP coordinators is critical to help partners—
  - (i) Frame conservation benefits in terms of NRCS resource concerns;
  - (ii) Understand RCPP eligible activities and determine which activities are best suited to treat NRCS resource concerns within the project area;
  - (iii) Develop their approach for measuring conservation (and potentially economic and social) outcomes of RCPP projects; and
  - (iv) Establish mutual understanding of program and partner capacities and rules for both NRCS and partners.

D. Withdrawal of Proposals

An applicant may withdraw their RCPP proposal within the NRCS Programs Portal at any time prior to PPA execution.

E. Incomplete Proposals

NRCS may not consider proposals that do not meet requirements of the applicable NFO.

**Note:** Proposals cannot be adjusted after the deadline for submission.

## 531.22 Eligibility

A. Lead Partner Eligibility

The lead partner for an RCPP project is the entity that submits a project proposal. If the proposal is selected for funding, the lead partner negotiates and executes a PPA with NRCS. The lead partner and NRCS are the only two parties that sign the PPA. The lead partner assumes responsibility for ensuring completion of all partner responsibilities in the PPA, including delivery and documentation of partner contributions, progress reporting, and assessing project outcomes. Lead partners must qualify as one of the following:

- (i) Agricultural or silvicultural producer association or other group of producers.
- (ii) State or unit of local government.
- (iii) Indian Tribe.

- (iv) Farmer cooperative.
- (v) Institution of higher education.
- (vi) Water district, irrigation district, acequia, rural water district or association, or other organization with specific water delivery authority to agricultural producers.
- (vii) Municipal water or wastewater treatment entity.
- (viii) Organization or other nongovernmental entity with an established history of working cooperatively with producers on agricultural land, as determined by NRCS, to address:
  - Local conservation priorities related to agricultural production, wildlife habitat development, or nonindustrial private forest land management; or
  - Critical watershed-scale soil erosion, water quality, sediment reduction, or other natural resource issues.
- (ix) An entity, such as an Indian Tribe, State government, local government, or a nongovernmental organization as identified by NRCS pursuant to 7 CFR Part 1468.

B. Land Eligibility.—Land may be considered eligible for enrollment in RCPP if the following requirements are met:

- (1) Is private or Tribal agricultural land, nonindustrial private forest land, or associated land on which an eligible activity would help achieve the conservation benefits defined for an approved project; or
- (2) Is publicly owned agricultural land or associated land and the enrollment of such land is:
  - (i) Appropriate for the type of eligible activity, and
  - (ii) The eligible activity to be implemented on the public land will contribute meaningfully to achieving a project's conservation benefits.

**Note:** Additional land eligibility requirements or limitations may be included in NFOs.

- (3) Ineligible Land Excluded from Enrollment for a Conservation Easement.—The following land is ineligible for enrollment for a conservation easement using RCPP funding as determined by NRCS:
  - (i) Land owned by a nongovernmental organization required to protect the stated conservation values is not eligible for any type of RCPP easement, except such land that meets all requirements to be enrolled through a buy-protect-sell transaction for an entity-held easement.
  - (ii) Land owned by a State, including an agency or a subdivision of a State or a unit of local government, is not eligible for any type of RCPP easement, except such land that meets all requirements to be enrolled through a buy-protect-sell transaction for an entity-held easement.
  - (iii) Land subject to an easement or deed restriction which provides similar restoration and protection as would be provided by enrollment in RCPP easements.
  - (iv) Land where the conservation purposes of the program would be undermined due to onsite or offsite conditions, such as risk of hazardous materials, permitted or existing rights-of-way, infrastructure development, or adjacent land uses.
  - (v) Land that has unacceptable exceptions to clear title or legal access that is encumbered, nontransferable, restricted, or otherwise insufficient.
  - (vi) Land on which gas, oil, earth, or mineral rights exploration has been leased or is owned by someone other than the landowner, unless determined that the third-party rights will not harm or interfere with achieving the conservation purposes.
  - (vii) Lands owned by an agency of the United States, other than acreage owned by an Indian Tribe.
  - (viii) Land on which the restoration, maintenance, management, or monitoring costs to the Federal Government are determined to be excessive for the area or type of conservation purposes.

**Note:** Eligible land must be shown in Farm Service Agency records as private or Tribal and be used for agricultural or forestry purposes. When atypical land eligibility scenarios are proposed, NRCS may consider information provided by a lead partner in determining eligibility. See 7 CFR Part 1464 for additional information or request assistance from National Headquarters (NHQ).

**Note:** See Title 180, National Planning Procedures Handbook (NPPH), Part 600, Subpart A, Section 600.2, “Definitions,” for land use designation definitions.

#### C. Eligible Activities

- (1) RCPP projects may include conservation practices or activities, land rental, agreements, easements, or related conservation measures that are available under the statutory authority of the conservation programs listed below:
  - (i) Environmental Quality Incentives Program
  - (ii) Conservation Stewardship Program (excluding the Grassland Conservation Initiative authority)
  - (iii) Agricultural Conservation Easement Program
  - (iv) Healthy Forests Reserve Program
  - (v) Public Law 83-566 Watershed Program (excluding the Watershed Rehabilitation authority)
  - (vi) Conservation Reserve Program
- (2) NRCS has identified five financial assistance activity types that encompass the range of eligible activities available under RCPP. These are classified as follows:
  - (i) Land Management.—Conservation practices or activities that include land improvement, management, or restoration, in addition to land treatment activities as authorized by Public Law 83-566. See subpart F, section 531.51B of this manual for additional guidance.
  - (ii) Land Rental.—NRCS will offer land rental payments through rental activity. See section 531.51B of this manual for additional guidance.
  - (iii) U.S.-Held Conservation Easements.—RCPP U.S.-held easements are available to address project resource concerns on any eligible land in the RCPP project area. See section, 531.51C of this manual for additional guidance.
  - (iv) Entity-Held Conservation Easements.—RCPP entity-held easements are available to address project resource concerns on any eligible land in the RCPP project area. See subpart E, section 531.45 of this manual for additional guidance.
  - (v) Watershed/Public Works.—Through the watersheds/public works activity in RCPP, NRCS may provide financial assistance to support implementation of structural works of improvement to address watershed-scale issues on eligible land. See section 531.44 of this manual for additional guidance.

**Note:** A single RCPP project proposal may include any combination of these financial assistance activities.

**Note:** See applicable NFO for limits or additional criteria for eligible activities.

### 531.23 Programmatic Partnership Agreement Development

#### A. General

- (1) Roles.—Upon project proposal selection, the lead State conservationist (STC) is responsible for engaging the PPA negotiation process with the lead partner to develop a PPA. See NI 440-316 and subpart U, exhibit 531.203E, “RCPP PPA and SA Delegation of Authority Worksheet,” of this manual for additional guidance on delegations and roles associated with PPAs.

- (2) The PPA is the binding agreement used to establish and formalize a partnership between the NRCS and the lead partner for carrying out the RCPP project.
  - (i) The post-selection negotiation process may refine the proposed project scope to ensure alignment with RCPP program policy. Negotiations end with the execution of the PPA.
  - (ii) The PPA documents project deliverables, specifically setting expectations for obligations of RCPP funding and delivery of partner contributions. In addition, it defines the conservation benefits and other outcomes to be achieved by the project, including the anticipated impact to any priority or project resource concerns.
  - (iii) Funding is not obligated to a project or a partner under the PPA. Rather, PPAs establish project budgets, which reflect NRCS budgets available for future obligations. NRCS will use producer contracts, SAs, or other instruments to obligate funds during the term of the PPA.

**Note:** Obligations entered during the term of the PPA may outlive the PPA term, consistent with authorities for the instruments employed.

- (iv) Based on available funding and agency priorities, NRCS may offer less RCPP funding than requested by a partner in a proposal. NRCS may also negotiate other project details to align the proposals with program requirements, actual or anticipated implementation, or other factors as determined by NRCS.

#### B. PPA Contents and Requirements

- (1) See NI 440-316 for detailed information and guidance on PPA components, contract types, PPA attachments, and their use during project negotiations.
- (2) If existing activities or payment schedules will not support contracting needs within a project, States should follow the guidance below and document the expected actions in the PPA:
  - (i) Identify project-specific payment percentages not to exceed 100 percent of NRCS-established typical scenario costs, applicability of project-specific payment rates to some or all practices or scenarios, and the rationale for payment percentage adjustments.
  - (ii) Follow standard agency payment schedule processes to request new components or practice scenarios.
  - (iii) Follow agency guidance to request new practices or enhancements. See Title 450, General Manual, Part 401, Subpart B, “Conservation Practice Standards and Supporting Documents,” to request interim practices.

**Note:** SA and program contract obligations should fully reflect the scheduled obligations in the PPA deliverables each fiscal year.

#### C. Duration

The initial term of a PPA between NRCS and a lead partner will be for a period of time:

- (i) Not to exceed 5 years in duration; or,
  - (ii) That is longer than 5 years if the longer period of time is necessary to meet the objectives of the project, as determined by NRCS.

#### D. Amendments

- (1) A PPA may only be extended once for a period of time no longer than 12 months from the original agreement expiration date.
- (2) NRCS or a lead partner may request other amendments to a PPA at any time during the term of the agreement. Changes to the agreement will be managed in accordance with the terms of the PPA. See subpart D, “Programmatic Partnership Agreement Management,” of this manual and NI 440-316 for additional guidance on agreement amendments.

#### E. Waivers

- (1) If the partner makes a request during the PPA negotiations to undertake activities in a manner that conflicts with or would deviate from policy, including the terms of the applicable NFO, the State will work with the partner to find a resolution that conforms with applicable policy. In the event a resolution cannot be identified, and a waiver is requested by the partner, States must follow the requirements set forth in subpart A, 531.6, “Policy Waivers,” and subpart U, exhibit 531.204L, “Waiver Requirements and Procedures.” States must not proceed until the waiver request is either approved or deemed unnecessary by NHQ.

F. The PPA between NRCS and a lead partner will—

- (1) Specify the scope of a project, including:
  - (i) One or more conservation benefits that the project will achieve;
  - (ii) Eligible activities on eligible land to be conducted under the project to achieve conservation benefits;
  - (iii) Local, State, multistate, or other geographic area covered;
  - (iv) Implementation timeline for carrying out the project, including any interim milestones;
  - (v) Potential agricultural or nonindustrial private forest land operation affected; and
  - (vi) The planning, implementation, and assessment to be conducted.
- (2) Identify the information, outreach, and training to producers for potential participation in the project;
- (3) Authorize the lead partner, at the request of a producer, to apply for assistance on behalf of a producer participating in the project;
- (4) Identify partner contributions to the project, including any direct or indirect costs incurred by partners or in-kind support provided by partners that will help achieve the project objectives;
- (5) Define the conservation benefits and other outcomes to be achieved by the project, including the impact to any priority or project resource concern;
- (6) Require the lead partner to assess periodically the progress made by the project in achieving the defined conservation benefits and outcomes;
- (7) Require the lead partner to report to NRCS at the conclusion of the project on the project’s results and funding leveraged;
- (8) Set forth the total amount of FA and TA funding that NRCS will reserve to support project implementation;
- (9) Document FA and TA budgets and timeline of obligations for each negotiated RCPP-funded activity in the project. Additionally, PPA deliverables will describe contracting or agreement methods to be used to obligate funds for each activity;
- (10) Establish the general terms and conditions of any supplemental agreement that NRCS or the lead partner may enter into with nonlead partners;
- (11) Identify the terms and conditions under which either NRCS or the lead partner may enter into SAs or exchange confidential producer information to further the purposes of the PPA;
- (12) Provide a detailed description of how the lead partner will facilitate participation of historically underserved producers (including through advance payment options, increased payment rates, outreach activities, or other methods) if the proposal received increased ranking priority as described in 7 CFR Section 1464.21(b)(8);
- (13) Include any unique requirements if the PPA is an AFA; and
- (14) Include other requirements deemed necessary by NRCS to achieve the purposes of RCPP.

G. Renewal

- (1) As determined by NRCS, a project may be renewed noncompetitively for a period not to exceed 5 years. Renewal requests will be completed through a streamlined proposal process in the NRCS Programs Portal.
- (2) See subpart B, section 531.12(2)(v) of this manual for additional renewal guidance.

#### H. Supplemental Agreements (SAs)

After execution of a PPA, NRCS may enter into SAs with a lead partner or a nonlead partner to provide TA or to assist producers with implementation of eligible activities in the project area. See subpart E, “Supplemental Agreements,” of this manual for additional guidance.

#### I. Alternative Funding Arrangements

- (1) NRCS may enter into AFAs with a lead partner to deliver program assistance directly to producers in accordance with 7 CFR Section 1464.25, guidance below, and in the applicable NFO.
  - (i) NRCS provides funding to partners to support conservation activities with eligible producers and landowners on eligible or benefitting land.
  - (ii) RCPP AFA funding is obligated to a lead partner based on negotiated deliverables and processes.
- (2) The terms of an AFA agreement may be made expressly in the PPA and may include providing financial assistance directly to the lead partner or to nonlead partners through SAs.
- (3) NRCS must not enter into more than 15 PPAs each fiscal year consistent with 7 CFR 1464.25 and section 531.12(2) of this manual.
- (4) At a minimum, NRCS must provide limited TA for each project, including ensuring National Environmental Protection Act (NEPA) and National Historic Preservation Act requirements are met and that participating producers comply with adjusted gross income, payment eligibility requirements on the Commodity Credit Corporation Form CCC-902, “Farm Operating Plan,” and highly erodible lands and wetlands conservation provisions.
- (5) NRCS is responsible for ensuring that adequate information is collected to make certain that RCPP AFA projects and activities comply with NEPA and other Federal, State, and local laws and regulations. NRCS is not necessarily responsible for data collection, which can be negotiated, but the agency cannot delegate analytical and decision-making responsibility for these items.
- (6) AFA evaluation and selection processes and negotiations are designed to ensure that NRCS and lead partners understand respective responsibilities within any project. It is ultimately an NRCS responsibility to ensure that RCPP funds are expended in accordance with applicable laws, program policies, and contract terms, as any failure to do so could result in improper payments and cost recovery.

### 531.24 Execution of PPAs

A. Lead States will work with lead partners to draft PPAs, utilizing the NRCS Programs Portal. See subpart U, exhibits 531.202A, “Programmatic Partnership Agreement Template (Classic),” and 531.202B, “Programmatic Partnership Agreement Template (AFA),” of this manual for PPA templates and associated exhibits and NI 440-316 for additional procedural guidance on executing a PPA.

B. States will submit complete agreement packages with associated PPA attachments and exhibits to NHQ for programmatic review. NHQ review ensures consistency with statute, regulation, and policy and requirements defined in the applicable NFO.

C. After obtaining NHQ concurrence, the lead State will then obtain signatures from the lead partner and the lead STC in the NRCS Programs Portal. The lead STC must be the last party to sign the agreement package. After both parties sign the PPA, the lead State will upload the signed agreement and activate the agreement within the NRCS Programs Portal.