

## **Part 528 – Agricultural Conservation Easement Program (ACEP)**

### **Subpart I – ACEP-ALE Financial Management Procedures**

#### **528.80 Overview**

A. This subpart provides guidance on the administration of ALE-agreements, including contracting and fund management activities. In particular, this subpart addresses topics related to the use of ACEP-ALE funds, ALE-agreement management, the issuance of ACEP-ALE funds for easement payments, NRCS procurement of review reports, and easement conveyance and recording requirements. Several topics addressed in this subpart are covered in greater detail in other agency policy. Wherever possible, these policies have been cross-referenced.

B. NRCS is responsible for the administration and management of ACEP-ALE funds. The Financial Management Modernization Initiative (FMMI) system is used for the obligation and payment of ACEP-ALE funds along with the easement business tools (e.g., National Easement Staging Tool (NEST)) for the tracking of ACEP-ALE applications, agreements, and parcels.

C. All obligations and payments for the acquisition of the easement must comply with the most current easement internal controls policy. NRCS may not provide tax advice, including any representations about the tax implications of any easement, contract, or financial transaction.

D. Only after the appropriate documents are reviewed, determined complete and proper, and funds availability is verified, may the State conservationist sign the appropriate obligating document. Funds are then obligated in FMMI to the eligible entity as the vendor. The eligible entity must provide all information needed to establish the eligible entity as the vendor in FMMI based on the entity's registration in the System for Award Management (SAM).

E. NRCS enters into an ALE-agreement with the eligible entity; obligates funds associated with the ALE-agreement; executes any needed amendments, memorandums, or other supplemental documents associated with the agreement; maintains the ALE-agreement file and the individual easement case files associated with each ALE-agreement; ensures the terms of the ALE-agreement are fulfilled; and issues payments in accordance with applicable policies, including the most current easement internal controls policy, and applicable NRCS and FPAC-BC financial management policy, and grants and agreements policy.

#### **528.81 Calculating Final Easement Payment Amounts**

A. The amount obligated is based on the estimated Federal share as determined using the eligible entity's estimates of acreage, fair market value of the agricultural land easement, and non-Federal share amount for each parcel (see subpart F, section 528.51 of this part).

- (1) For ACEP-ALE cooperative agreements or ACEP-ALE grant agreements with certified eligible entities, the ACEP-ALE funds are obligated and managed in FMMI at the individual fiscal year attachment level, with the amounts associated with the individual parcels selected for funding listed in the FMMI obligation based on the amounts in the attachment. After an ACEP-ALE cooperative or grant agreement has been entered into, there may be changes to the estimated easement value based on the

final approved appraisal or changes in estimated acreage. These final approved acreages and appraised easement values, along with any bargain sale reductions, NRCS scope determinations, amount of ACEP-ALE funds available under the ALE-agreement attachment on which the parcel is listed, and if applicable, approved waivers of applicable eligible entity cash match requirements, will be the basis for determining whether adjustments to the Federal share are needed and to determine the final ACEP-ALE cost-share payment amounts in accordance with limitations described in subpart E, section 528.43 of this part and subpart F, section 528.51 of this part.

- (2) For ACEP-ALE program agreements, the ACEP-ALE funds are obligated to each individual ACEP-ALE cost-share contract associated with that program agreement. The ACEP-ALE cost-share contract is used to provide the cost-share assistance funds for the purchase of a single easement. States authorized to use ACEP-ALE program agreements are provided specific guidance related to ACEP-ALE fund obligation, management, and payment.

B. If the landowner is paid more than the appraised fair market value of the agricultural land easement, the eligible entity is responsible for 100 percent of the easement cost over the appraised fair market value of the agricultural land easement.

C. In the case of a bargain sale, where the landowner chooses to donate part of the agricultural land easement value by accepting a payment less than the full appraised market value of the easement, the eligible entity must contribute a minimum of the purchase price (appraised fair market value of the agricultural land easement minus the landowner donation) based on the applicable non-Federal share requirements as provided in subpart E, section 528.43 of this part.

D. Prior to closing, the eligible entity must provide the applicable “Statement to Confirm Matching Funds” (Form NRCS-CPA-230 or successor form) signed by the landowner and the eligible entity acknowledging—

- (1) The appraised fair market value of the agricultural land easement.
- (2) The landowner’s charitable donation or qualified conservation contribution toward the easement value.
- (3) The agricultural land easement purchase price.
- (4) The eligible entity cash contribution amount.
- (5) The Federal share.
- (6) For 2014 Farm Bill enrollments, the administrative costs for the agricultural land easement and the eligible entity’s recommended entity and landowner contributions to acquisition costs and to a stewardship fund (see subpart U of this part for “Statement to Confirm Matching Funds,” Forms NRCS-CPA-230 (2014 Farm Bill version)).
- (7) For 2018 Farm Bill enrollments, the estimated or actual amounts for the easement acquisition related costs and stewardship and monitoring costs broken out by the amounts for such items provided by the eligible entity and if applicable, by the landowner. For each of the easement acquisition related cost items, the eligible entity must enter only the cost of the item procured from a third-party for the services or reports that meet the applicable NRCS requirements. (See subpart U of this part for the “Statement to Confirm Matching Funds,” Forms NRCS-CPA-230 (2018 Farm Bill version).)

**Note:** For 2018 Farm Bill enrollments, the submission of receipts or invoices is only required to support the procured costs relied upon by the eligible entity to meet the

minimum non-Federal share requirement (see subpart E, section 528.43B) of this part.

E. The estimate of an eligible entity’s recommended contribution to a stewardship fund should be justified by an estimate of the expenses the eligible entity will incur over time in monitoring and enforcing the easement.

- (1) State program managers must scrutinize recommended contributions of more than 2 percent of the appraised fair market value of the agricultural land easement. State program managers may approve a contribution to a stewardship fund in excess of 2 percent where the entity provides a documented rationale and basis supporting the amount. As needed, State program managers may consult with the Easement Programs Division (EPD) for assistance evaluating these requests.
- (2) NRCS must review the matching funds requirement with the landowner to ensure that the landowners understand that ACEP-ALE does not require them to contribute to the stewardship fund or the easement acquisition cost and must certify through the execution of the “Statement to Confirm Matching Funds” (Forms NRCS-CPA-230 or successor form) that this discussion has occurred. It is recommended that this discussion between NRCS and the landowner occur in person during the NRCS onsite visits to complete the onsite inspections, ranking, preliminary certificate of inspection and possession, or other due diligence activities.

F. For 2014 Farm Bill Enrollments:

The eligible entity is required to certify that its minimum required cash contribution comes from other sources outside of the landowner. This applies to both formal and informal agreements made between the landowner and the eligible entity. For the purposes of making this determination, the term “landowner” includes the landowner’s immediate family members and organizations controlled or funded by the landowner or an immediate member of the landowner’s family.

## **528.82 Easement Closing and Payment Procedures**

A. Overview

- (1) Payment of the Federal share of the agricultural land easement may be issued to the eligible entity on a reimbursable basis after the easement is acquired or as an advance payment issued prior to closing.
- (2) Payments made for the purchase of agricultural land easements are based on the information provided on the payment request form (e.g., Standard Form (SF) 270, “Request for Advance or Reimbursement”) and associated documents (e.g., the applicable SF-270 supplement). The payment request form (e.g., SF-270) and all required payment request documentation are prepared by the eligible entity and submitted to NRCS. The eligible entity may submit the payment request package (e.g., SF-270 and associated documents):
  - (i) Prior to closing when a payment is to be issued at closing (advance payment)
  - (ii) After the agricultural land easement has been recorded and the landowners have been paid (reimbursement)
  - (iii) On a quarterly basis for each quarter that agricultural land easements have been recorded and the landowners have been paid (reimbursement)
- (3) The entity must submit a separate payment request package (e.g., SF-270 and associated documents) to NRCS for each parcel. When an advance is requested, the eligible entity must notify NRCS and provide the required payment request package

documents at least 60 days prior to the planned closing date. NRCS will not issue the payment more than 30 days prior to the planned closing date. The timelines for submission of documents to NRCS are outlined in this subpart.

**Note:** For ACEP-ALE agreements entered into under the 2014 Farm Bill or in fiscal year 2019 only, as applicable, a copy of the NRCS approval letter for each parcel that has received an eligible entity cash contribution waiver must be included in the payment request package for that parcel.

- (4) If an advance of the Federal share will be requested for easements that will be acquired under an ACEP-ALE cooperative agreement or where authorized, an ACEP-ALE program agreement individual cost-share contract with a noncertified eligible entity, in addition to submitting the required payment request package documents, eligible entities must also obtain NRCS approval of the agricultural land easement deed and exhibits thereto, including the legal description or survey, appraisal, title commitment, baseline documentation report, and as applicable, the agricultural land easement plan, prior to requesting advance of the Federal share or closing on an agricultural land easement for which the Federal share will be requested. NRCS documents its approval of the required documents by completing and signing the “NRCS Approval Letter to Proceed with the ACEP-ALE Acquisition” and provides a copy to the eligible entity (see subpart U of this part for the NRCS approval letter to proceed with the ACEP-ALE acquisition).
- (5) Payment of the Federal share for the purchase of the agricultural land easement is made to the eligible entity established as the vendor in FMFI. For advance payments, the eligible entity must assign the payment of the Federal share to the closing agent (payee) on the payment request form (e.g., SF-270). For reimbursements the eligible entity may receive the funds directly or may assign the payment on the payment request form (e.g., SF-270). Payments are made through an electronic funds transfer (EFT). The payee must provide its tax identification number and bank routing and account information to NRCS. If an escrow or closing agent is the payee to administer the funds for the agricultural land easement purchase, its address is established as another address code under the eligible entity’s vendor number in FMFI. For payments to the closing agent, a separate “Assignment of Payment” form (CCC-36 or successor form) is not required. For ALE, the eligible entity is the recipient of the Federal funds, and the closing agent is a vendor providing a service to the eligible entity. The closing agent for the eligible entity is not a recipient or subrecipient of the Federal funds provided under ACEP-ALE and therefore is not required to be registered in the Dun and Bradstreet Data Universal Numbering System (DUNS) or have current SAM registration.
- (6) The eligible entity or the closing agent prepares all IRS Form 1099-MISC, “Miscellaneous Income,” reporting for landowners. The closing agent must prepare the Form 1099-MISC for advances.

#### B. Closing and Payment Review Procedures for Easements being Acquired under an ACEP-ALE Cooperative Agreement

- (1) Preclosing Steps: Reimbursements and Advances
  - (i) Step 1.—No less than 90 days prior to the targeted closing date, for each parcel the eligible entity must send to NRCS—
    - The agricultural land easement deed and exhibits thereto, including the legal description or survey.
    - A hardcopy and electronic copy of the appraisal report.
    - A copy of the title company’s title commitment and underlying documents.

## Title 440 – Conservation Programs Manual

- A summary of the findings or recommendations from the entity review of the recorded and unrecorded exceptions.
  - A draft baseline documentation report for each parcel.
  - A copy of the agricultural land easement plan or highly erodible land (HEL) conservation plan, as required pursuant to subpart G, section 528.63 of this part.
  - Any impervious surface waiver requests and supporting documentation.
  - A map of any existing and proposed building envelopes.
  - For 2014 Farm Bill enrollments: Any waiver requests and supporting documentation for eligible entity cash contribution waivers for projects of special significance submitted after the ACEP-ALE cooperative agreement is entered into.
- (ii) Step 2.—NRCS must review the materials provided by the eligible entity as described below. Generally, NRCS should complete the review within 45 days of receipt of complete materials from the eligible entity. However, for parcels that require national-level internal controls review on which an advance payment will be requested, NRCS must complete this review with 30 days of receipt of a complete package of materials from the entity. These timelines apply only after NRCS receives a complete set of the required materials from the eligible entity. NRCS must—
- Review the deed for conformance to policy and required deed terms. NRCS will provide the eligible entity with notification of the acceptability of the agricultural land easement deed or a list of changes needed to meet ACEP-ALE program purposes.
  - Review the legal description or survey that is an exhibit to the deed, to ensure it meets the requirements in subpart G, section 528.60B of this part, including, but not limited to, conformance to the description set forth in the title records and proper representation of the easement area.
  - Conduct a technical review of the appraisal to ensure that the Federal share being provided by the United States is supported by the appraised fair market value of the agricultural land easement. NRCS will provide the eligible entity with notification of the acceptability of the appraisal or information on the changes needed to meet applicable appraisal standards and NRCS requirements.
  - Examine the title commitment and complete Form NRCS-LTP-23, “Certificate of Use and Consent” (see subpart U of this part for Form NRCS-LTP-23). NRCS consults with the USDA Office of the General Counsel as necessary.
  - Inspect the parcel and complete a Form NRCS-LTP-27, “Preliminary Certificate of Inspection and Possession” (see subpart U of this part for Form, NRCS-LTP-27).
  - Provide the eligible entity with written notification of title issues that must be remedied, such as—
    - Recorded and unrecorded exceptions to the title that must be removed or subordinated.
    - Leases that must be terminated.
    - Options that must be cancelled.
  - Review the draft baseline documentation report and as applicable, the agricultural land easement plan which may include an HEL conservation plan. Per the applicable plan and review requirements identified in subpart

G, section 528.63 of this part, NRCS will notify the eligible entity if the plan is approved or if additional changes are needed.

- Advances Only
- NRCS must send the letter to the eligible entity providing the closing agent requirements for an advance payment of ACEP-ALE funds and attach the NRCS closing agent requirements (see subpart U of this part for the letter to the eligible entity regarding closing agent requirements for ACEP-ALE advance payments and the NRCS closing agent requirements).
- For 2014 Farm Bill Enrollments
- Review and complete determinations on eligible entity cash contribution requirement waiver requests submitted 90 days prior to the planned closing date.

(2) Preclosing Steps: Reimbursements Only

(i) Step 3.—No less than 30 days prior to the planned closing date, the eligible entity must—

- Notify NRCS of the planned date to close on the agricultural land easement.
- Provide NRCS with documentation of resolution of identified issues with title, appraisals, deeds, or easement plans.
- Provide NRCS a signed and completed “Statement to Confirm Matching Funds” (Forms NRCS-CPA-230):
  - For 2014 Farm Bill Enrollments
  - Use Form NRCS-CPA-230C for General ALE parcels or Form NRCS-CPA-230D for ACEP-ALE-GSS parcels (see subpart U of this part) and include a copy of any approved entity cash contribution waivers.
  - For 2018 Farm Bill Enrollments
  - Use Form NRCS-CPA-230E for General ALE parcels or Form NRCS-CPA-230F for ACEP-ALE-GSS parcels (see subpart U of this part).

(ii) Step 4.—Prior to the closing, NRCS must—

- Review and sign the “Statement to Confirm Matching Funds” (Forms NRCS-CPA-230 or successor form) and provide a copy to the eligible entity.
- Complete the preclosing/prepayment internal controls review in accordance with the most current easement internal controls policy. Within 10 days of receipt of the items listed in step 3 above, the closing request package for reimbursements must be submitted for national-level internal controls review and approval for all agricultural land easements that meet the national internal controls review thresholds or other submission criteria. NRCS must inform eligible entities that the national internal controls review may take up to 30 days from the date a complete package is submitted.
- Complete and sign the “NRCS Approval Letter to Proceed with the ACEP-ALE Acquisition” and provide a copy to the eligible entity (see subpart U of this part for the NRCS approval letter to proceed with the ACEP-ALE acquisition).
- For 2014 Farm Bill Enrollments  
Sign the agricultural land easement plan and provide a copy to the eligible entity.
- For 2018 Farm Bill Enrollments  
Ensure the HEL conservation plan on any highly erodible cropland meets requirements of 7 CFR Part 12 and a copy provided to the eligible entity.

(3) Preclosing Steps: Advances Only

- (i) Step 3.—No less than 60 days prior to the planned closing date, the eligible entity must—
- Send NRCS a completed payment request package (e.g., SF-270, “Request for Advance or Reimbursement,” and a completed SF-270 supplement) with all required documentation as identified in the ACEP-ALE-cooperative agreement (see subpart U of this part for SF-270 and SF-270 supplement for ACEP-ALE cooperative agreements).
  - Notify NRCS of the planned date to close on the agricultural land easement.
  - Provide NRCS with documentation of resolution of identified issues with title, appraisals, deeds, or easement plans.
  - Provide NRCS a copy of the unexecuted agricultural land easement deed with all exhibits.
  - Provide a copy of the baseline documentation report signed by the eligible entity and as applicable, the agricultural land easement plan signed by the landowner and eligible entity.
  - Return the completed NRCS closing agent requirements document to NRCS signed by the closing agent verifying that the he or she meets the requirements and signed by the eligible entity in concurrence. The completed document must also include the closing agent’s name, address, contact information, and EFT information (e.g., banking and routing information or wire instructions, and escrow account information). (See subpart U of this part for the letter to the eligible entity regarding closing agent requirements for ACEP-ALE advance payments and the NRCS closing agent requirements.)
  - Provide a copy of the American Land Title Association (ALTA) title commitments and evidence of liability insurance equal to at least the amount of the Federal funds being provided with an eligible entity that is party to the ALE-agreement named as the insured party.
  - Provide a signed settlement statement prepared by the closing agent.
  - Provide NRCS a signed and completed “Statement to Confirm Matching Funds” (Forms NRCS-CPA-230):
    - For 2014 Farm Bill Enrollments
    - Use Form NRCS-CPA-230C for General ALE parcels or Form NRCS-CPA-230D for ACEP-ALE-GSS parcels (see subpart U of this part) and include a copy of any approved entity cash contribution waivers.
    - For 2018 Farm Bill Enrollments
    - Use Form NRCS-CPA-230E for General ALE parcels or Form NRCS-CPA-230F for ACEP-ALE-GSS parcels (see subpart U of this part).
- (ii) Step 4.—Prior to the closing, NRCS must—
- Review and sign the “Statement to Confirm Matching Funds” and provide a copy to the eligible entity.
  - Review the payment request package (e.g., SF-270, SF-270 supplement, and associated documentation) and complete the preclosing/prepayment internal controls review in accordance with the most current easement internal controls policy. States must submit a copy of the payment request package for national internal controls review and approval for all agricultural land easement payments that meet the national internal controls review threshold or other submission criteria. Complete payment request packages for national internal controls review must be submitted to NRCS National Headquarters no less than 30 days before the planned closing date.

- Complete and sign the “NRCS Approval Letter to Proceed with the ACEP-ALE Acquisition” and provide a copy to the eligible entity (see subpart U of this part for the NRCS approval letter to proceed with the ACEP-ALE acquisition).
  - For 2014 Farm Bill Enrollments  
Sign the agricultural land easement plan and provide a copy to the eligible entity.
  - For 2018 Farm Bill Enrollments  
Ensure the HEL conservation plan on any highly erodible cropland meets requirements of 7 CFR Part 12 and a copy provided to the eligible entity.
- (iii) Step 5.—No more than 30 calendar days prior to the planned closing date and only after NRCS has received, reviewed, and approved all required documentation, NRCS may make an advance payment of the Federal share. The advance payment of the Federal share will be issued to the closing agent by EFT for the closing agent to hold in escrow.
- (iv) Step 6.—After the Federal share is deposited in escrow and prior to the closing, the eligible entity must obtain a receipt for the Federal funds from the closing agent and provide it to NRCS.

#### C. Reimbursement to Eligible Entities for easements closed under an ACEP-ALE Cooperative Agreement

- (1) Step 1.—After the eligible entity has completed the contractual requirements and paid the ACEP-ALE landowners, the eligible entity must—
- (i) Send NRCS a completed and signed SF-270 and a completed SF-270 supplement for ACEP-ALE cooperative agreements with all required documentation as identified in the ACEP-ALE cooperative agreement (see subpart U of this part for SF-270 and SF-270 supplement for ACEP-ALE cooperative agreements).
  - (ii) Provide a copy of the closing agent’s closing statement for each parcel.
  - (iii) Attach on a separate piece of paper, the landowner’s names, acres acquired, term of agricultural land easements, amounts paid, Federal share of the agricultural land easement cost, and dates payments were made to the landowners.
  - (iv) Include a copy of the recorded agricultural land easement deed for each parcel.
  - (v) Provide a copy of the ALTA title insurance policy.
- (2) Step 2.—Upon receipt of a completed and signed SF-270, NRCS must—
- (i) Date stamp the SF-270.
  - (ii) Ensure recorded agricultural land easement deed contains the approved language.
  - (iii) Ensure the final policy of title insurance contains only those exceptions approved by NRCS and the eligible entity.
  - (iv) Ensure funds are available for payment.
  - (v) Request FPAC-BC Payment Operations Section (POS) (formerly Accounts Payable) to process payment in FMFI. Prompt Payment Act interest is not applicable to NRCS-funded programs.
  - (vi) Enter Federal Assistance Award Data System (FAADS) data, if applicable, using Code for Federal Data Assistance (CFDA) number 10.931. FAADS reporting is not required for Federal and State Government payees.
- (3) Step 3.—In the SF-270 block labeled “This space for agency use,” NRCS must include—
- (i) A two-digit payment-type code.
    - Use “FP” for payments made in the same fiscal year the cooperative agreement was entered into.



- Use “FL” for payments made after the fiscal year the cooperative agreement was entered into.
- (ii) A two-digit fiscal year of cooperative agreement.
- (iii) The ACEP-ALE agreement number, the ACEP-ALE parcel number, and the FMFI WBS element.
- (iv) The same ACPE-ALE agreement number obligated in FMFI.
- (v) The name, signature, and telephone number of the NRCS certification official.

D. Closing and Payment Review Procedures for Easements Closed Under an ACEP-ALE Grant Agreement with a Certified Eligible Entity

- (1) Step 1.—At the time the payment request is submitted, the certified eligible entity must provide NRCS—
- (i) A completed SF-270, “Request for Advance or Reimbursement” and a completed SF-270 supplement for ACEP-ALE grant agreements with all required documentation as identified in the grant agreement (see subpart U of this part for SF-270 and SF-270 supplement for ACEP-ALE grant agreements).
  - (ii) A signed and completed “Statement to Confirm Matching Funds” (Forms NRCS-CPA-230):
    - For 2014 Farm Bill Enrollments  
Use Form NRCS-CPA-230C for General ALE parcels or Form NRCS-CPA-230D for ACEP-ALE-GSS parcels (see subpart U of this part) and include a copy of any approved entity cash contribution waivers.
    - For 2018 Farm Bill Enrollments  
Use Form NRCS-CPA-230E for General ALE parcels or Form NRCS-CPA-230F for ACEP-ALE-GSS parcels (see subpart U of this part).
  - (iii) The agricultural land easement deed and exhibits thereto, including the legal description or survey.
  - (iv) A hardcopy and electronic copy of the appraisal report.
  - (v) A copy of the title company’s title commitment and underlying documents.
  - (vi) A certificate of use and consent or substantively similar document with the summary of the findings or recommendations from the entity review of the recorded and unrecorded exceptions.
  - (vii) A signed baseline documentation report for each parcel.
  - (viii) Any impervious surface waiver requests and supporting documentation.
  - (ix) A map of any existing and proposed building envelopes.
  - (x) As applicable, a copy of the signed agricultural land easement plan, including any required HEL conservation plans (see subpart G, section 528.63 of this part).
  - (xi) For Advance Payments Only

Return the completed NRCS closing agent requirements document to NRCS signed by the closing agent verifying that he or she meets the requirements and signed by the eligible entity in concurrence. The completed document must also include the closing agent’s name, address, and EFT information (e.g., banking and routing information or wire instructions, and escrow account information). (See subpart U of this part for the letter to the eligible entity regarding closing agent requirements for ACEP-ALE advance payments and the NRCS closing agent requirements.)

**Note:** For ACEP-ALE grant agreements with certified eligible entities, NRCS will not review the content of items (iii)–(ix) above, prior to issuing the payment. NRCS reviews the agricultural land easement plan (if applicable) prior to closing in accordance with subpart H, section 528.74(4) of this part. NRCS will retain

submitted documents in the official easement case file and will review these documents for agricultural land easement transactions selected for quality assurance review.

- (2) Step 2.—Upon receipt of a completed and signed SF-270, NRCS must—
  - (i) Date stamp the SF-270.
  - (ii) Complete the review of the payment request in accordance with the most current easement internal controls policy and upload the required information into the easement business tool (e.g., NEST).
  - (iii) Ensure funds are available for payment.
  - (iv) Request FPAC-BC POS to process payment in FMMI. Prompt Payment Act interest is not applicable to NRCS-funded programs.
  - (v) Enter FAADS data, if applicable, using CFDA number 10.931. FAADS reporting is not required for Federal and State government payees.
- (3) Step 3.—In the SF-270 block labeled “This space for agency use,” NRCS must include—
  - (i) A two-digit payment-type code.
    - Use “FP” for payments made in the same fiscal year the grant agreement was entered into.
    - Use “FL” for payments made after the fiscal year the grant agreement was entered into.
  - (ii) A two-digit fiscal year of grant agreement.
  - (iii) The ACEP-ALE agreement number, the ACEP-ALE parcel number, and the FMMI WBS element.
  - (iv) The same ACEP-ALE agreement number obligated in FMMI.
  - (v) The name, signature, and telephone number of the NRCS certification official.

E. Closing Agent Responsibilities for all Advance Payments

- (1) The term “closing agent” refers to a title company, an escrow company, a private attorney, or other qualified entity or entities that assist the eligible entity with the execution and recordation of the agricultural land easement deed and other closing responsibilities.
- (2) The closing agent must meet the NRCS closing agent requirements. See Subpart U, “Exhibits,” for NRCS closing agent requirements.
- (3) The closing agent may not hold the funds in escrow for more than 30 calendar days. If the agricultural land easement cannot be closed within 30 calendar days, the closing agent must return the funds (and any accrued interest) to NRCS in accordance with NRCS instructions. States, including EAB, must reach out to the appropriate FPAC-BC section to determine appropriate course of action.
- (4) The escrow account must be fully insured by the closing agent to ensure that Federal funds are not lost due to bank failure or otherwise.
- (5) If interest accrues while the funds are deposited in escrow, the closing agent will return the interest accrued, unless otherwise indicated within the cooperative agreement to the NRCS State office. Funds should be returned by EFT, but if paid by check, the check will be made payable to the CCC/NRCS.

F. Postclosing Requirements for All Reimbursements and Advances

- (1) Step 1.—Immediately following closing, the eligible entity must ensure that the closing agent—

- (i) Issues a policy of title insurance on a standard ALTA owner's policy in the amount of the purchase price as of the time and date of the recording of the agricultural land easement deed to the eligible entity.
  - (ii) Records or files the agricultural land easement deed in the office where local land records are officially recorded and stored in that State (e.g., county registrar of land records, county or town clerk land records office, etc.) within 5 business days of conveyance of the agricultural land easement to the holder.
- (2) Step 2.—The closing agent is also responsible for delivering all of the following to the eligible entity:
- (i) A statement covering the agreed upon closing costs
  - (ii) Original policy of title insurance on the standard ALTA owner's policy form
  - (iii) Original and one copy of executed settlement statements
  - (iv) Recorder's certified copies of the agricultural land easement deed and clearance documents, including subordination agreements
  - (v) IRS Form 1099-MISC reporting information
- (3) Step 3.—Within 30 days of recordation or with the request for reimbursement, whichever is sooner, the eligible entity must provide NRCS a copy of the—
- (i) Recorded agricultural land easement deed and clearance documents, including subordination agreements.
  - (ii) Final policy of title insurance.

G. Repayments for ALE-agreement Violation or Overpayment

The NRCS will notify the eligible entity in writing of the amount due, specifying the exact contract violation or the extent of the overpayment. The notification should advise the eligible entity that they will receive a formal bill from the National Financial Center (NFC) with information on where to send the payment. The bill should be received in approximately 2 weeks. The NRCS finance staff creates a bill in Internet Billing (IBIL) that provides the necessary information for NFC to produce the actual hardcopy bill that is mailed to the eligible entity.