



Ohio Administrative Code

Rule 901-2-06 Determination of selected application properties.

Effective: [March 21, 2016](#)

(A) Phase one "Application"

(1) Applications reviewed by the department: Within ninety days of the close of the application period, and after the application ranking system evaluation is completed, the department shall determine the top scoring applications, in descending order, and the top scoring applications shall proceed to phase two of the process.

(2) Applications reviewed by certified local sponsors: Within ninety days of the close of the application period, and after the application ranking system evaluation is completed, top scoring applications shall be selected by the certified local sponsor and forwarded to the department for phase two.

(B) Phase two Review

Within ninety days of the receipt of applications selected by the department and certified local sponsors, the farmland preservation advisory board shall review the selected applications as provided by the director and the certified local sponsors, and shall ensure that the applications are given a score according to the application ranking system within the ranges as prescribed by these rules. Once the applications are found compliant, the farmland preservation advisory board shall then ensure that the applications as submitted are in compliance with the director's guidelines as provided for the current funding round. The farmland preservation advisory board shall then advise the director of those applications which are compliant with the ranking system and within the director's guidelines for that funding round. Upon such selection, the director and/or certified local sponsors shall notify the landowners their application has been selected to proceed to phase three of the process. If additional time is required to notify the landowner(s) of their selection to proceed to phase three, the local sponsor shall request a time extension from the director. The granting of such extension of time shall be in the director's sole discretion.



(C) Phase three "Contingency"

This phase confirms that the application property has been approved for grant funding pending completion of a title search or letter of clear title and review of any contingencies, such as legal boundary, review, appraisal, and signing of the purchase agreement. The department will review the documentation for compliance with the program requirements. The application may proceed if the department determines that the documentation is satisfactory.

(1) The following documents must be obtained and conditions met at the landowner's sole expense:

- (a) A current title search performed by an authorized title insurance agency for the entire application property;
- (b) A title insurance commitment naming the department as an insured party;
- (c) A property survey, if required in the sole discretion of the director; and
- (d) Interests that limit the title of a property, such as mortgages, leases, liens, restrictions, or legal or equitable interests, must be cleared or subordinated, unless exempted by the director.

If the holder of a lien/mortgage on the property will not sign the subordination agreement prior to the signing of the agricultural easement, the landowner must provide the office of farmland preservation a commitment letter from the lien/mortgage holder which states their obligations to subordinate their interests to the department once at or prior to landowner receiving any funds from the department.

(2) If the title search, required under paragraph (C)(1)(a) of this rule, reveals other third party interests, not previously known, that may threaten the intent to keeping the land in agriculture if exercised, a statement of subordination to the terms of the agricultural easement shall be obtained from the third party by the landowner, before proceeding to rule 901-2-08 of the Administrative Code. Otherwise, a statement of no unsubordinated third party interests shall be included in the results of the title search.

(3) At the director's discretion, a comparable land appraisal may be required. The party responsible



for incurring the cost of the comparable land appraisal will be determined by the director prior to phase three "Purchase Agreement/Contingency" of the application period.

(4) The applicant completing a present condition report using a template provided by the director as specified in rule 901-2-08 of the Administrative Code.

(5) Such other information as is necessary and useful to determine that the property is appropriate for inclusion, as requested by the director.

(6) Costs incurred by the department or the local sponsor for the above items may be paid directly to the department or the local sponsor, or may be reimbursed to the department or the local sponsor at closing. The department will review the documentation for compliance with the program requirements. The application may proceed if the department determines that the documentation is satisfactory.

(D) Phase four: "Purchase Agreement"

Once phase three is completed and the department has determined the property is in compliance with the program requirements a purchase agreement will be drafted and sent to the landowner and/or the local sponsor. Once the department has received a signed purchase agreement from the landowner, the application shall proceed to phase five. The purchase agreement shall include but not be limited to:

(1) The total amount of the offer per acre, and for the entire application property;

(2) A statement that the grantor has no actual knowledge of hazardous substances or wastes, and that the grantee is held harmless from any and all liability or expense arising from violation of environmental laws and regulations;

(3) Any other provisions the director deems necessary for the landowner to be aware of prior to signing a deed of agricultural easement, and permitted pursuant to section 901.21 or 901.22 or division (D)(2) of section 5301.691 of the Revised Code.



(a) Within thirty days of receipt of the purchase agreement from the director, the landowner shall sign and return the document to the director, or advise the director, in writing, of their rejection of the offer. Failure of the applicant or landowner to act within thirty days of receipt of the purchase agreement shall constitute a rejection of the director's offer to purchase.

(b) If the purchase agreement is signed by all parties, then the application shall proceed to phase five.

(E) Phase five " Execution of Deed of Easement"

(1) Except for the purposes of paragraph (E)(2) of this rule, upon receipt of a signed purchase agreement, the landowner shall convey a deed of agricultural easement to the state of Ohio where the department shall tender a lump sum payment to a title insurance company or the local sponsor, who will obtain an title insurance company or other agent, to act as an escrow agent for distribution to the landowner and/or the landowner's assignee(s) in the proportions directed by the landowner.

(2) Upon receipt of a signed purchase agreement, the landowner shall convey a deed of agricultural easement to the state of Ohio where the department shall compensate the landowner through an installment purchase agreement. Such agreement must be pre-approved by the director and shall include:

(a) Any installment payment terms;

(b) Dates and amounts of payments and to whom payable, including without limitation any assignee(s) of landowner; and,

(c) Interest rate on the outstanding balance.