

For: State and County Offices

Working With Partners to Advance CRP

Approved by: Deputy Administrator, Farm Programs



1 Overview

A Background

Organizations outside the Federal Government can often achieve conservation goals by encouraging CRP enrollment or enhancing CRP practices on enrolled land.

B Purpose

This notice:

- encourages FSA to cultivate partnerships because partnering with third-party organizations interested in encouraging CRP enrollment or enhancing CRP practices helps budget and staff constraints
- provides information about third party data-sharing MOU's
- provides CRP partnership frequently asked questions (FAQ's) (Exhibit 1)
- provides a template for a data-sharing MOU (Exhibit 2).

C Contact information

If there are questions about:

- this notice, then County Offices shall contact the State Office and State Offices shall contact either of the following:
 - Jim Michaels, CEPD, by either e-mail to jim.michaels@wdc.usda.gov or telephone at 202 690-0794
 - Rich Iovanna, EPAS, by either e-mail to rich.iovanna@wdc.usda.gov or telephone at 202-547-0196

Disposal Date	Distribution
June 1, 2015	State Offices; State Offices relay to County Offices, NRCS State Offices, and State CREP Partners

Notice CRP-781

1 Overview (Continued)

C Contact information (Continued)

- data-sharing, then County Offices shall contact the State Office and State Offices shall contact John Underwood, MSD, by either e-mail to john.underwood@kcc.usda.gov or telephone at 816-926-6992.

2 Third Party Partnering

A Third-Party Organizations

Examples of interested third-party organizations can include State agencies, agri-businesses, investors, and nongovernmental organizations (NGO's). Many State agencies have long been involved in providing outreach, technical, and financial assistance for CRP, including CREP and SAFE projects. Involvement by other organizations has been less common. Recent examples of NGO's leveraging CRP include efforts by the following:

- the Nature Conservancy in Louisiana to enhance bottomland hardwood habitat and sequester carbon using permanent easements and a more intensive plant schedule
- Ducks Unlimited to roll expired CRP acreage into North Dakota into sustainable grazing land using permanent easements.

B Third-Party Organization Enhancements

CRP policy encourages for partnering. Examples of what the third-party organization as partners can be doing to encourage and enhance CRP include, but are **not** limited to the following:

- **outreach;** partners can make landowners aware of CRP, how to enroll in CRP, and what benefits are obtained from participation through on-farm demonstrations and other public events, press releases, and printed material, such as posters and fact sheets, displayed or distributed at FSA Offices
- **technical assistance;** partners can supplement USDA resources by placing qualified staff in FSA Offices during signup periods to answer technical questions about enrolling land in CRP, connecting landowners with experts who can provide CRP-mid-contract management recommendations, providing landowners with technical assistance in developing conservation plans, and monitoring enrolled land to ensure that practices are performing as intended
- **financial assistance;** partners can offer monetary incentives to encourage landowners to enhance practices on CRP land, either by increasing the intensity of ecological restoration or by extending conservation benefits into perpetuity through easements.

Notice CRP-781

2 Third Party Partnering (Continued)

B Third-Party Organizations (Continued)

While nothing prevents a third-party organization from providing outreach or technical or financial assistance to landowners without directly involving FSA, partnering with FSA will be mutually advantageous. The partnership involves discussion and refinement of the CRP-related activities to ensure compatibility with CRP requirements and maximize their impact. When FSA is assured that the activities will encourage enrollment or enhance practices on enrolled land, FSA can develop an appropriate data-sharing MOU, to provide producer and CRP data to facilitate activities and, when financial assistance is involved, to get the word out to landowners about the additional incentive.

Notes: Any written agreement between a partner and landowner is completely distinct from, yet **must** be compatible with, the CRP contract.

While partnerships with State agencies are integral to CREP and SAFE projects, this notice pertains to partnership opportunities that are less involved.

3 Action

A National Office Action

The National Office shall:

- work with potential and current partners on nationwide and regional efforts
- support the efforts of State and County Offices to cultivate and support partnerships.

B State Office Action

State offices shall:

- work with potential and current partners on Statewide and regional efforts
- reach out to third parties that may be interested in leveraging CRP to achieve their conservation goals in the State
- respond to third parties who are seeking information or proposing a partnership

Note: See Exhibit 1 for FAQ's and answers about CRP partnerships that can be distributed.

- discuss partnership opportunities that arise with National Office

Notice CRP-781

3 Action (Continued)

B State Office Action (Continued)

- if partner intentions are likely to encourage CRP enrollment or enhance CRP practices, provide producer and CRP data needed by the partner, **after** a data-sharing MOU is signed

Note: See Exhibit 2 for a template MOU.

- if the partner intends to provide financial assistance likely to encourage CRP enrollment or enhance CRP practices, then the State Office shall do the following:
 - get the word out to landowners about the opportunity
 - facilitate conservation plan modifications, as needed.

C County Office Action

County offices shall:

- work with potential and current partners on local efforts
- reach out to third parties that may be interested in leveraging CRP to achieve their conservation goals in the county
- respond to third parties who are seeking information or proposing a partnership

Note: See Exhibit 1 for FAQ's and answers about CRP partnerships that can be distributed.

- discuss partnership opportunities that arise with State Office
- if the partner intends to provide financial assistance and the State Office determines that doing so will encourage CRP enrollment or enhance CRP practices on enrolled land, then the County Office shall do the following:
 - get the word out to landowners about the opportunity
 - facilitate conservation plan modifications, as needed.

CRP Partnership FAQ's

Q1: Why partner with FSA to encourage CRP enrollment or enhance CRP practices?

A1: Leveraging CRP can make the partner's conservation efforts more cost effective. When an organization's conservation goals are in sync with CRP's purpose to reduce soil erosion, improve water quality, create wildlife habitat, and mitigate greenhouse gas emissions, building on the CRP can get more done than trying to reach conservation goals alone.

Q2: What can partners do to encourage CRP enrollment or enhance CRP practices?

A2: Partners can provide outreach, technical assistance, and financial assistance. Examples include the following.

- **Outreach.** Partners can make landowners aware of CRP, how to enroll in CRP, and what benefits are obtained from participation through on-farm demonstrations and other public events, press releases, and printed material, such as posters and fact sheets, displayed or distributed at FSA Offices.
- **Technical assistance.** Partners can supplement USDA resources by placing qualified staff in FSA Offices during signup periods to answer technical questions about enrolling land in CRP, connecting landowners with experts who can provide CRP-mid-contract management recommendations, providing landowners with technical assistance in developing conservation plans, and monitoring enrolled land to ensure that practices are performing as intended.
- **Financial assistance.** Partners can offer monetary incentives to encourage landowners to enhance practices, either by increasing the intensity of ecological restoration or by extending conservation benefits into perpetuity through easements.

Q3: What does an organization get out of partnering with FSA?

A3: When FSA is assured that the activities will encourage enrollment or enhance practices, FSA can provide producer and CRP data to facilitate activities and, when financial assistance is involved, to get the word out to landowners about this additional incentive. The partnership involves discussion and refinement of the CRP-related activities to ensure compatibility with CRP requirements and to maximize their impact.

Q4: How do partner efforts relate to CRP contractual obligations?

A4: Partner efforts **must** be compatible with the goals of CRP and **not** adversely impact landowners' ability to meet CRP contractual obligations. When a partner intends to enhance a CRP practice (through financial assistance), conservation plans associated with contracts **must first** be modified by NRCS or a certified technical service provider (TSP). Any agreement between a partner and landowner to enhance a practice is completely distinct from, yet subordinate to, the CRP contract.

CRP Partnership FAQ's (Continued)

- Q5:** Can a conservation partner provide assistance to enhance practices associated with active CRP contracts, as well as prospective contracts?
- A5:** Yes, they can assist both existing and new CRP participants. An agreement could pertain to an existing contract, providing that the conservation plan is modified, as necessary. An agreement could also pertain to land not yet enrolled in CRP and be made conditional on enrollment.
- Q6:** What is the appropriate scale for partnerships to support or enhance CRP?
- A6:** Assistance can be directed to as few as 1 landowner or as many as necessary to address local, State, regional, or national concerns.
- Q7:** What role do the FSA National, State, and County Offices play in CRP partnerships?
- A7:** A State or County Office will typically be the first point-of-contact for potential partners, although the National Office can be involved at the onset, depending on the organization and the scope of their intended effort.

If the activity is deemed by the National or State Office to be compatible with CRP goals, the National or State Office, as applicable, can provide producer and CRP data to facilitate activities. If financial assistance is intended, the State or County Office can get the word out to landowners about the opportunity and facilitate conservation plan modifications, as needed.

Template for a Data-Sharing MOU

When FSA is assured that the activities will encourage enrollment or enhance practices on enrolled land, FSA can develop an appropriate data-sharing MOU, using the following template that is available from the contacts in subparagraph 1 C, if a sharing agreement is **not** currently on file.

MEMORANDUM OF UNDERSTANDING

WITH

(Replace with the name of the USDA COOPERATOR)

CERTIFYING USDA AGENCY: FARM SERVICE AGENCY

I. Purpose

This USDA Cooperator Memorandum of Understanding is being issued by the Farm Service Agency (FSA) to establish that *(replace with the name of the organization)* has been certified by FSA to be a USDA Cooperator who will work in cooperation with the Secretary of Agriculture by providing outreach, technical assistance, and/or financial assistance in support of the Conservation Reserve Program (CRP). CRP is a program of the USDA's Commodity Credit Corporation. FSA administers CRP on behalf of CCC.

An individual or organization (governmental or non-governmental) certified by FSA to be working in cooperation with the Secretary of Agriculture on a USDA program under which access is required to certain data that is protected by 7 U.S.C. § 8791 of the Food, Conservation and Energy Act of 2008—such as CRP—is known, for purposes of this memorandum, as a “certified USDA Cooperator.”

II. USDA Cooperator

As a certified USDA Cooperator, *(replace with the name of the organization)* is authorized to be granted access to protected agricultural data. Protected data approved for disclosure under this Memorandum of Understanding shall be strictly limited to only that data necessary for *(replace with the name of the organization)* to provide *(choose outreach, technical assistance, and/or financial assistance)* concerning CRP. Disclosure of information to *(replace with the name of the organization)* can include receiving the protected data either:

- (1) directly from FSA
- (2) directly from the producer or owner as part of the process required to enable a producer or owner to participate in the USDA program.

III. USDA Cooperator Use of the Protected Data

(Replace with the name of the organization) has provided information to FSA indicating that the protected data shall only be used to *(document how the USDA Cooperator will use the protected data)*. The data covered by this memorandum are confidential and protected by section 1619 of the Food, Conservation, and Energy Act of 2008, P.L. 110-246; section 2004 of the Food, Conservation, Farm Security and Rural Investment Act of 2002, P.L. 107-171; the Privacy Act of 1974; the E-Government Act of 2002; and related authorities.

IV. Responsibilities

Template for a Data-Sharing MOU (Continued)

IV. Responsibilities

A. FSA agrees to:

Provide to *(replace with the name of the organization)* the protected data that has been approved for disclosure under this Memorandum of Understanding. The protected data types approved for disclosure are limited to:

- *(Provide the data types that are covered by this Memorandum of Understanding)*

B. *(Replace with the name of the organization)* agrees that:

- Signature on this Memorandum of Understanding indicates acknowledgement and understanding that data types identified in this Memorandum of Understanding are protected from improper use/improper disclosure by 7 U.S.C. § 8791 (see Exhibit 1). Improper use/improper disclosure of the protected data is a violation of Federal statute 7 U.S.C. § 8791. By signing this Memorandum of Understanding, *(replace with the name of the organization)* acknowledge that he/she may be held legally liable should improper use/improper disclosure of the protected data occur in violation of 7 U.S.C. § 8791.
- Signature on this Memorandum of Understanding legally binds *(replace with the name of the organization)* to comply with the provisions in 7 U.S.C. § 8791.

Note: When signature is made on behalf of an organization, the signatory represents the he/she possesses the authority to bind that organization to the terms of this memorandum; the signatory also acknowledges that such signature also legally binds every owner, manager, supervisor, employee, contractor, agent, and representative of the organization to comply with the provisions in 7 U.S.C. § 8791.

- *(Replace with the name of the organization)* shall use the protected data only to perform work that is directly connected to providing *(choose outreach, technical assistance, and/or financial assistance)* with respect to CRP. Use of the protected data to perform work that is not directly connected to CRP is expressly prohibited.
- *(Replace with the name of the organization)* shall not disclose the protected data to any individual or organization that is not directly covered by this Memorandum of Understanding.
- *(For an organization - replace with the name of the organization - delete paragraph if not an organization)* shall internally restrict access to the protected data to only those individuals within the organization that have a demonstrated need to know the protected data in order to perform work on CRP.
- *(For an organization - replace with the name of the organization - delete paragraph if not an organization)* The provisions in 7 U.S.C. § 8791 are continuing obligations. Even when *(replace with the name of the organization)* is no longer a USDA Cooperator, or when individuals currently affiliated with *(replace with the name of the organization)*

Template for a Data-Sharing MOU (Continued)

should leave the organization, every person having been provided access to the protected data shall continue to be legally bound to comply with the provisions in 7 U.S.C. § 8791.

- *(For an organization - replace with the name of the organization - delete paragraph if not an organization)* shall notify all members of the organization that will be provided access to the protected data about the existence of this Memorandum of Understanding. Also, for the duration of this Memorandum of Understanding (1) notification about this Memorandum of Understanding shall be made to any individual new to the organization if that individual will be provided access to the protected data (notification shall be made prior to the individual being provided access to the protected data) and (2) periodic notification will be sent (at a frequency not to exceed 180 calendar days) to remind all with access to the protected data about the ongoing/continuing requirement to comply with this Memorandum of Understanding.
- This Memorandum of Understanding is non-transferable. Certification to obtain protected data may not be bought, sold, traded, assigned, extended to, or given free of charge to any other individual or organization that is not directly covered by this Memorandum of Understanding.
- *(Replace with the name of the organization)* shall notify FSA immediately when *(replace with the name of the organization)* is no longer, or within 30 calendar days of the date on which *(replace with the name of the organization)* will no longer be, a USDA Cooperator working in cooperation with the Secretary of Agriculture concerning CRP, whichever is sooner.
- Use of the protected data for any purpose is expressly prohibited, effective immediately, when *(replace with the name of the organization)* is no longer a USDA Cooperator. When *(replace with the name of the organization)* is no longer a USDA Cooperator, any protected data provided under this Memorandum of Understanding must be immediately destroyed. *(Replace with the name of the organization)* shall provide to FSA written certification that the protected data (paper and/or electronic copy) has been properly destroyed and/or removed from any electronic storage media.
- *(Use if the USDA Cooperator is a State governmental employee, State contractor, or representative of a State agency - delete paragraph if not applicable)* Hereby represents that the State's "sunshine law", "open records act", and/or version of the Freedom of Information Act does not have a competing legal obligation that could potentially be used in an attempt to compel disclosure of the 7 U.S.C. § 8791 protected data identified in this Memorandum of Understanding.

Note: If the Secretary of Agriculture does not receive full assurance that the protected data will be properly withheld by a State governmental agency, (e.g., State policy indicating that public disclosure of information shall not be required for records that are specifically required by the Federal government to be kept confidential), then 7 U.S.C. § 8791 prohibits the disclosure of the protected data to the State governmental agency. Remove this text from the final Memorandum of Understanding.

Template for a Data-Sharing MOU (Continued)

- *(Replace with name of organization)* will comply with the provisions of the Privacy Act of 1974, 5 U.S.C. §552a , and restrict and otherwise prevent the disclosure of personally identifiable information.

Amendments

This Memorandum of Understanding may be amended at any time by the mutual written agreement of FSA and *(replace with the name of the organization)*.

Termination

This Memorandum of Understanding may be terminated:

- Immediately by FSA if it is confirmed or even suspected that *(replace with the name of the organization)* has committed an improper use/improper disclosure of protected data in violation of 7 U.S.C. § 8791.
- Immediately by FSA if it is confirmed that *(replace with the name of the organization)* is no longer a USDA Cooperator requiring access to data protected by 7 U.S.C. § 8791.
- Immediately at the request of *(replace with the name of the organization)* upon identification that *(replace with the name of the organization)* no longer requires access to 7 U.S.C. § 8791 protected data and therefore requests that the USDA Cooperator certification be rescinded.
- At any time by the mutual written agreement of FSA and *(replace with the name of the organization)* or independently by FSA or *(replace with the name of the organization)* with a 30 calendar day written notice to the other party.

Effective Period

This Memorandum of Understanding will be in effect on the date of the final signature and will continue until *(specific expiration date or a maximum date of September 30, 2018)*. Should the Memorandum of Understanding need to continue beyond the identified effective period, the entire Memorandum of Understanding must be reviewed, updated if necessary, and revalidated prior to the expiration date of the identified effective period.

Template for a Data-Sharing MOU (Continued)

Signature of the USDA Cooperator and the Date Signed

(*Signature Block for the USDA Cooperator)

Date Signed: _____

** When signature is made on behalf of an organization, the signatory must be an Official within the organization with the authority to legally bind the entire organization to comply with the provisions in 7 U.S.C. § 8791 and terms and conditions within this Memorandum of Understanding. Remove this text from the final Memorandum of Understanding.*

Signature of the Farm Service Agency Certifying Official and the Date Signed

(**Signature Block for the USDA Certifying Official)

Date Signed: _____

*** For a Memorandum of Understanding within a single State/Territory the signatory for FSA may be the State Executive Director. For a Memorandum of Understanding that covers multiple States/Territories the signatory shall be a Senior FSA Program Owner, the FSA Privacy Officer, or a comparable Senior Agency Official. Remove this text from the final Memorandum of Understanding.*



Template for a Data-Sharing MOU (Continued)

7 U.S.C. § 8791 of the Food, Conservation and Energy Act of 2008

7 U.S. C. § 8791 – INFORMATION GATHERING.

(a) **GEOSPATIAL SYSTEMS.**—The Secretary shall ensure that all the geospatial data of the agencies of the Department of Agriculture are portable and standardized.

(b) **LIMITATION ON DISCLOSURES.**—

(1) **DEFINITION OF AGRICULTURAL OPERATION.**—In this subsection, the term “agricultural operation” includes the production and marketing of agricultural commodities and livestock.

(2) **PROHIBITION.**—Except as provided in paragraphs (3) and (4), the Secretary, any officer or employee of the Department of Agriculture, or any contractor or cooperator of the Department, shall not disclose—

(A) information provided by an agricultural producer or owner of agricultural land concerning the agricultural operation, farming or conservation practices, or the land itself, in order to participate in programs of the Department; or

(B) geospatial information otherwise maintained by the Secretary about agricultural land or operations for which information described in subparagraph (A) is provided.

(3) **AUTHORIZED DISCLOSURES.**—

(A) **LIMITED RELEASE OF INFORMATION.**—If the Secretary determines that the information described in paragraph (2) will not be subsequently disclosed except in accordance with paragraph (4), the Secretary may release or disclose the information to a person or Federal, State, local, or tribal agency working in cooperation with the Secretary in any Department program—

(i) when providing technical or financial assistance with respect to the agricultural operation, agricultural land, or farming or conservation practices; or

(ii) when responding to a disease or pest threat to agricultural operations, if the Secretary determines that a threat to agricultural operations exists and the disclosure of information to a person or cooperating government entity is necessary to assist the Secretary in responding to the disease or pest threat as authorized by law.

(4) **EXCEPTIONS.**—Nothing in this subsection affects—

(A) the disclosure of payment information (including payment information and the names and addresses of recipients of payments) under any Department program that is otherwise authorized by law;

(B) the disclosure of information described in paragraph (2) if the information has been transformed into a statistical or aggregate form without naming any—

(i) individual owner, operator, or producer; or

(ii) specific data gathering site; or

(C) the disclosure of information described in paragraph (2) pursuant to the consent of the agricultural producer or owner of agricultural land.

(5) **CONDITION OF OTHER PROGRAMS.**—The participation of the agricultural producer or owner of agricultural land in, or receipt of any benefit under, any program administered by the Secretary may not be conditioned on the consent of the agricultural producer or owner of agricultural land under paragraph 4(c).

(6) **WAIVER OF PRIVILEGE OR PROTECTION.**—The disclosure of information under paragraph (2) shall not constitute a waiver of any applicable privilege or protection under Federal law, including trade secret protection.