



(Rev 1/2014)

# Department of Agriculture, Trade and Consumer Protection

## Permanent Agricultural Conservation Easements (PACE)

### Reimbursement of Eligible PACE Transaction Costs

This handout provides information for cooperating entities requesting reimbursement from the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) for eligible transaction costs associated with easement acquisitions under the state Permanent Agricultural Conservation Easement (PACE) program.

Contact the Wisconsin PACE program manager to discuss specific questions:

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Section 93.73, Wis. Stats., includes requirements for program management, eligibility, approval and other aspects of the PACE program, and is a useful reference for program participants. Section 93.73, Wis. Stats., is not the complete or only description of DATCP PACE policies. Section 93 of the Wisconsin Statutes can be found at: <http://www.legis.state.wi.us/statutes/Stat0093.pdf>

#### **DATCP may only reimburse easement transaction costs under the following terms and conditions:**

- Transaction costs are defined by statute as “out-of-pocket expenses incurred in connection with the acquisition, processing, recording, and documentation of an agricultural conservation easement, including out-of-pocket expenses for land surveys, land descriptions, real estate appraisals, title verification, preparation of legal documents, reconciliation of conflicting property interests, documentation of existing land uses, and closing. ‘Transaction costs’ does not include costs incurred by a cooperating entity for staffing, overhead, or operations.” (s. 93.73(1)(i), Wis. Stats.)
- Transaction costs are limited to the cost of real estate appraisals, land surveys with prior approval from DATCP, title searches, recording fees, closing fees, posting of DATCP PACE signage, attorney fees for limited services (see below) with cost share not to exceed \$1,500, documentation of existing land uses with cost share not to exceed \$1,500, and environmental hazards assessment completed through contract by professional consultants.
- DATCP will pay 80% of a cooperating entity’s eligible and reasonable transaction costs. The cooperating entity must pay the remaining 20% of the transaction costs. DATCP’s total cost share for transaction costs shall not exceed \$12,000.
- DATCP will only reimburse a cooperating entity for 80% of its out-of-pocket costs, e.g. actual costs incurred and paid directly by the cooperating entity. In-kind contributions do not count toward the cooperating entity’s 20% cost share requirement. Costs for in-house legal counsel will not be reimbursed.

- DATCP will only reimburse a cooperating entity for transaction costs specifically enumerated in a signed contract between DATCP and the cooperating entity. (s. 93.73 (6m), Wis. Stats.)
- The cooperating entity must follow DATCP's Easement Appraisal Report Guidelines, Title Search Guidance and other instructions provided by DATCP related to reimbursable transaction costs. DATCP will only reimburse transaction costs that conform to these standards.
- Not all easements will require a land survey. Pre-approval from DATCP is required for reimbursement for the costs of a certified survey map (CSM) or any land survey.
- Eligible attorney's fees are limited to: preparation or review of satisfaction of judgments, liens and other clouds on title, review of conservation easements, review of the cooperating entity's contract with DATCP, and other department required reviews.
- DATCP will not reimburse a cooperating entity for transactions until the easement has been recorded at the county register of deeds, and the cooperating entity submits proof that conflicting property interests have been eliminated or subordinated, and proof that the purchase cost and transaction costs have been paid. (s. 93.73 (9), Wis. Stats.)
- DATCP will not reimburse a cooperating entity for transaction costs for an easement that is ultimately not recorded.
- DATCP will not reimburse costs incurred by a landowner.
- The cooperating entity must be listed as the client for all costs for which it requests reimbursement.
- The cooperating entity must follow generally accepted accounting principles and practices.
- The cooperating entity must provide DATCP with copies of invoices or vouchers and cancelled checks or bank statements for all costs for which it requests reimbursement.
- All claims for reimbursement must be made within 6 months post-easement closing on forms provided by the department.
- The cooperating entity must keep records associated with the easement transaction costs for 4 years after final payment from the department.