

**FISCAL YEAR 2014  
STATEMENT OF WORK  
BETWEEN THE  
UNITED STATES OF AMERICA  
COMMODITY CREDIT CORPORATION  
ACTING THROUGH THE  
NATURAL RESOURCES CONSERVATION SERVICE  
and the  
[ENTITY or ENTITIES NAME(S)]  
for the  
AGRICULTURAL CONSERVATION EASEMENT PROGRAM**

This Cooperative Agreement is entered into by and between the **United States of America (the United States)**, acting by and through the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) on behalf of the Commodity Credit Corporation (CCC), and the **[ENTITY or ENTITIES NAME(S)]** (hereinafter whether singular or plural **ENTITY**) for the implementation of the Agricultural Conservation Easement Program (ACEP) Agricultural Land Easement (ALE) component. The CCC shall utilize the expertise and services of NRCS to administer this program and perform the duties set forth within this Cooperative Agreement. The term “Parties” as used herein refers collectively to the United States and the **ENTITY**.

**I. AUTHORITY.**

This Cooperative Agreement is entered into by the United States under the authorities of the Commodity Credit Corporation Charter Act, 15 U.S.C. 714 et seq. and Agricultural Conservation Easement Program, Subtitle H of Title XII of the Food Security Act of 1985, as amended by Section 2301 of the Agricultural Act of 2014 (Public Law 113-79) (the Act). In addition to these authorities, this Cooperative Agreement will be administered in accordance with the policies and procedures set forth in the FRPP regulation, 7 CFR part 1491 and **[cite to April 30 National Bulletin]**. The CCC administers the ACEP under the general supervision of the Chief of the NRCS who is a Vice President of the CCC.

**II. BACKGROUND AND PURPOSE.**

The Act authorizes the Secretary of Agriculture to facilitate and provide funding for the purchase of Agricultural Land Easements on eligible land by an eligible entity from an eligible landowner. The Act authorized ACEP funding for fiscal years (FY) 2014 through 2018.

**WHEREAS**, eligible entity means Indian Tribe, State government, local government, or a nongovernmental organization that has an agricultural land easement program that purchases agricultural land easements for one or more of the following two purposes:

1. protecting the agricultural use and future viability, and related conservation values, of eligible land by limiting nonagricultural uses of that land; or
2. protecting grazing uses and related conservation values by restoring and conserving eligible land.

**WHEREAS**, eligible land means land determined by NRCS to be privately owned agricultural land, including land on a farm or ranch, that is subject to a written pending offer to purchase an agricultural land easement, meets one or more of the four criteria listed below, and meets one or more of the acceptable land uses identified in the Act:

1. has prime, unique, or other productive soil;

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2. contains historical or archaeological resources;
3. the enrollment of which would protect grazing uses and related conservation values by restoring and conserving land; or
4. the protection of which will further a State or local policy consistent with the purposes of ACEP.

**WHEREAS**, eligible landowner means all persons, legal entities, or Indian Tribes having legal ownership of land and those who may be buying eligible land under a written purchase agreement. The term landowner may include all forms of collective ownership including joint tenants, tenants-in-common, and life tenants. State governments, local governments, and nongovernmental organizations that qualify as eligible entities are not eligible as landowners. In addition, to be eligible a landowner must meet the applicable highly erodible land and wetland compliance provisions of the Act.

**WHEREAS**, Section 1265A of the Act defines an Agricultural Land Easement as an easement on eligible land that is conveyed for the purpose of protecting natural resources and the agricultural nature of the land; and permits the landowner the right to continue agricultural production and related uses subject to an agricultural land easement plan, as approved by the Secretary of Agriculture.

**WHEREAS**, the **ENTITY** and the United States have mutual interests in protecting eligible land for agricultural use and future viability, and related conservation values, by limiting nonagricultural uses of that land or protecting grazing uses and related conservation values by restoring and conserving agricultural land; and

**WHEREAS**, the United States administers the ACEP through NRCS on behalf of the CCC; and

**WHEREAS**, the **ENTITY** administers an agricultural land easement program and has written pending offers for acquiring Agricultural Land Easements on eligible land from landowners within [STATE], the **ENTITY** has submitted these eligible lands to the United States for consideration for funding under ACEP, the Parties have agreed to combine their resources to assure that such eligible lands are protected for agricultural use and future viability, and related conservation values, by limiting nonagricultural uses of that land or for grazing uses and related conservation values by restoring and conserving these areas, and the Parties have identified these eligible lands on the Attachment A to this Cooperative Agreement as Parcels (as a group the Parcels and individually as the Parcel).

**WHEREAS**, the **ENTITY** intends to acquire a perpetual, or for the maximum duration allowed under applicable State laws, Agricultural Land Easement on each Parcel.

**WHEREAS**, this Cooperative Agreement stipulates the terms and conditions under which the eligible entity is permitted to use NRCS Federal cost-share assistance provided under Section 2301 of the Act.

**WHEREAS**, the **ENTITY** has signed the Notice of Grant and Agreement Award acknowledging that the award is subject to the terms and conditions of this Cooperative Agreement and all applicable laws, regulations, and policy, including without limitation Financial Assistance Regulations, of the United States.

**THEREFORE**, the Parties agree to enter into this Cooperative Agreement.

### **III. BENEFITS**

The benefit of this Cooperative Agreement is that funds will be provided to the **ENTITY**, also known herein as the Cooperating Entity, for the protection of eligible land for agricultural use and future viability, and related conservation values, land by limiting nonagricultural uses of that land or for grazing uses and related conservation values by restoring and conserving the agricultural land as grassland. Section 1265B of the Agricultural Act of 2014 authorizes the Secretary of Agriculture to provide funding

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for the purchase of Agricultural Land Easements by eligible State, Tribal or units of local government or nongovernmental organizations and authorizes the Secretary of Agriculture to enter into agreements with eligible entities.

**IV. OBLIGATION OF FUNDS**

A. Upon execution of this Cooperative Agreement, the United States shall obligate the sum on the Notice of Award for the acquisition by the **ENTITY** of Agricultural Land Easements on the funded Parcels listed on Attachment A. The **ENTITY** must close on the easement acquisition and request payment of this amount in accordance with Section VII of this Cooperative Agreement before the dates in Table 1. The **ENTITY** must request payment in accordance with Section VII of this Cooperative Agreement. Should the Cooperating Entity not meet the Closing Deadline or the Payment Request Deadline dates established in Table 1, any remaining funds may be de-obligated from this Cooperative Agreement unless the agreement is extended as provided for in Section XI.A.

Table 1

<b>FY of Fund Obligation</b>	<b>Attachment Listing Parcels</b>	<b>Closing Deadline</b>	<b>Payment Request Deadline</b>	<b>Attachment A Expiration Date</b>
2014	A	March 31, 2016	August 31, 2016	September 30, 2016

B. This Cooperative Agreement is the authorizing document that obligates CCC funds for the acquisition of Agricultural Land Easements by the **ENTITY**. Attachment A to this Cooperative Agreement specifies the properties on which FY 2014 CCC funds will be used within [STATE] and includes:

1. name of the landowner(s);
2. number of acres to be acquired;
3. the estimated Agricultural Land Easement value;
4. estimated Federal Contribution not to exceed 50 percent of the estimated Agricultural Land Easement value, and
5. whether offered Parcels have been approved for funding, if a Parcel is listed but not selected for funding the Parcel is a substitute Parcel.

C. Attachment A must include the Parcels selected for funding and any Parcels to be considered for substitution under Section IX.C.12. of this Cooperative Agreement. Parcels not included in Attachment A, either as a funded Parcel or a substitute, as of September 30, 2014 will not be eligible for funding under this Cooperative Agreement. The Parties will not add additional Attachments listing Parcels to this agreement.

D. However, nothing in this document obligates the United States or the **ENTITY** to purchase all or any of the Agricultural Land Easement Parcels listed in the Attachment A.

**V. FEDERAL CONTRIBUTION**

The Federal Contribution provided by NRCS, also known as the Federal Share, for the acquisition of each Agricultural Land Easement acquired by the **ENTITY** shall be an amount not to exceed 50 percent of the fair market value of the Agricultural Land Easement as determined by the United States. The Federal Contribution cannot be used for closing or related administrative costs incurred by the **ENTITY** in acquiring the Agricultural Land Easement. The Federal Contribution for Parcels must be

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determined using an appraisal performed by a certified general appraiser in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP) or Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA) and NRCS appraisal standards and specifications provided as exhibit 4 to this agreement.

**VI. COOPERATING ENTITY’S CONTRIBUTION**

A. The **ENTITY** shall contribute an amount at least equivalent to Federal Contribution. The **ENTITY** may include as part of its contribution a charitable donation or qualified conservation contribution (as defined by section 170(h) of the Internal Revenue Code of 1986) from the private landowner if the eligible entity contributes its own cash resources in an amount that is at least 50 percent of the amount contributed by NRCS, unless the NRCS State Conservationist has waived a portion of the **ENTITY** cash contribution requirement for projects of special significance. The **ENTITY**, or its designated escrow agent must disburse 100 percent of the payment, representing the easement purchase price, to the landowner at the time of closing. A copy of the NRCS approval letter for each Parcel listed on Attachment A that has received an **ENTITY** cash contribution waiver requests must be included with Attachment A to this agreement and submitted with the payment request for that Parcel.

B. Before NRCS accepts the Agricultural Land Easement and issues a payment, the **ENTITY** must self-certify on the NRCS Form 230, Confirmation of Matching Funds (Exhibit 2), that the **ENTITY**’s share of matching funds has not come from additional donations, payments, loans or fees made by or charged to the Grantor of the Agricultural Land Easement, immediate family members, or organizations controlled by or funded by the Grantor of the Agricultural Land Easement, either through formal or informal agreements.

C. The **ENTITY**’s share of the cost of purchasing the Agricultural Land Easement must be a contribution of the **ENTITY**’s own cash resources. As part of its share of the cost of purchasing the Agricultural Land Easement, the **ENTITY** shall not contribute land from another Parcel or in-kind contributions, including related administrative and closings costs (e.g., surveys, appraisals, legal expenditures).

**VII. PAYMENTS**

A. The **ENTITY** shall notify the United States at least 30 days in advance when the CCC funds are to be paid to the **ENTITY** under this agreement. CCC funds shall be paid to the **ENTITY** when the United States is provided a copy of the recorded Agricultural Land Easement and the **ENTITY** has paid the landowner(s).

B. Where the **ENTITY** cannot obtain 100 percent of the funds to be paid to the landowner(s) at the closing of an Agricultural Land Easement on a Parcel and requires the United States to make its payment at closing rather than on a reimbursable basis, the **ENTITY** may request from the United States an advance of the Federal Contribution to a Parcel. When an advance is requested, the **ENTITY** shall notify NRCS at least 60 days prior to closing and provide NRCS with items identified in paragraph F below.

C. If the request for an advance is approved by the United States, the United States may make an advance payment of the Federal Contribution to an authorized closing agent via electronic transfer to hold in escrow. The **ENTITY** will obtain a receipt for the funds from the closing agent and provide it to the United States prior to closing. The **ENTITY** will ensure the closing agent does not hold the funds in escrow for more than 30 calendar days. If closing does not occur within 30 days of advance payment the **ENTITY** will ensure funds are returned to the United States. If interest is earned on CCC funds while in escrow, the **ENTITY** will ensure the closing agent returns any interest earned to the United States.

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D. The **ENTITY** must obtain NRCS approval of the Agricultural Land Easement deed, appraisal, title commitment, baseline documentation report, and Agricultural Land Easement Plan prior to requesting advance of the Federal Contribution or closing on an Agricultural Land Easement for which the Federal Contribution will be requested. The Agricultural Land Easement deed using the required deed terms, appraisal, title commitment, baseline documentation report, and Agricultural Land Easement Plan must be provided to NRCS at least 90 days before the intended closing date for the Agricultural Land Easement.

E. To obtain payment of ACEP funds, whether after closing or in advance of closing, the **ENTITY** will submit Form SF-270, Request for Advance/Reimbursement of Funds (Form SF-270 Exhibit 3), and the information specified below to the \_\_\_\_\_ NRCS State Office. Prior to submitting the SF-270 for an advance of funds, the **ENTITY** must also request a copy of closing agent requirements from the United States and ensure that the closing agent meets these requirements. The **ENTITY** may submit the Form SF-270:

1. Prior to closing when a payment is to be issued at closing;
2. After all the deeds have been recorded and the landowner has been paid; or
3. On a quarterly basis for each quarter that Agricultural Land Easements have been recorded and the landowner(s) have been paid.

F. At a minimum, for every Agricultural Land Easement whether an advance or reimbursement, the following information shall be included in, or attached to, the SF-270, before NRCS will accept the Agricultural Land Easement and disburse payment, except as noted below:

1. Name of the Cooperating Entity;
2. Tax Identification Number (TIN) and DUNs for the Cooperating Entity;
3. Cooperative Agreement number;
4. Agricultural Land Easement Parcel number(s);
5. Landowner(s) name(s), address, and telephone number;
6. Total amount of dollars paid to the landowner for each Agricultural Land Easement specifying the Federal share and the non-Federal share of the Agricultural Land Easement cost,
7. A copy of the NRCS approval letter for any approved waivers of the Eligible Entity Cash Contribution Requirement
8. Acres acquired for each Agricultural Land Easement;
9. Copy of the approved Agricultural Land Easement deed for each Parcel, if a reimbursement is requested then Copy must be of recorded deed with recording receipt;
10. NRCS Form 230, Confirmation of Matching Funds, for each easement;
11. For an advance, a copy of the American Land Title Association (ALTA) title commitment reimbursement;
12. For a reimbursement, a copy of the American Land Title Association (ALTA) title insurance policy;
13. For an advance, a signed settlement statement prepared by the closing agent; and

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14. For an advance, evidence of liability insurance coverage in an amount at least equal to the purchase price of the Agricultural Land Easement, providing for reimbursement to NRCS for any loss of Federal funds caused by fraud or dishonest or failure by the attorneys, closing agents, or closing agents employees to comply with the written closing instructions.

**VIII. AGRICULTURAL LAND EASEMENT MINIMUM TERMS AND CONDITIONS**

A. The **ENTITY** shall ensure that Agricultural Land Easements acquired under this Cooperative Agreement meet the following minimum conditions to permit effective enforcement of the Agricultural Land Easement for protection of agricultural use and future viability, and related conservation values, of eligible land by limiting non-agricultural uses or for protection of grazing uses and related conservation values by restoring and conserving eligible land:

1. Run with the land in perpetuity or for the maximum duration allowable under State law, where State law prohibits a permanent easement;
2. Protect the agricultural use and future viability, and related conservation values, of eligible land by limiting nonagricultural uses of that land or protect grazing uses and related conservation values by restoring and conserving eligible land; and
3. Provide for the administration, management, and enforcement of the Agricultural Land Easement by the **ENTITY** or its successors.

B. The **ENTITY** shall ensure that the Minimum Terms For The Protection Of Agricultural Use Exhibit (Minimum Terms Exhibit), attached to this Cooperative Agreement as Exhibit 7, is attached to the Agricultural Land Easements acquired under this Cooperative Agreement or that the Agricultural Land Easements acquired under this Cooperative Agreement contain the terms as stated in the Minimum Terms Exhibit. The **ENTITY** is authorized to add its own terms and conditions to the Agricultural Land Easements so long as the **ENTITY's** additional language does not alter or defeat the intent, purpose or effective enforcement by the United States of the Minimum Terms, the ACEP, or the Agricultural Land Easements acquired under this Cooperative Agreement.

C. The **ENTITY** will ensure that the Agricultural Land Easement deed is reviewed and approved for use by NRCS prior to the **ENTITY** requesting an advance of the Federal Contribution or closing on an Agricultural Land Easement for which the **ENTITY** will request the Federal Contribution.

D. If the **ENTITY** elects to attach the Minimum Terms Exhibit to the Agricultural Land Easements acquired under this Cooperative Agreement, the **ENTITY** will ensure it is signed by the landowner, **ENTITY**, and NRCS and is attached to the Agricultural Land Easements acquired under this Cooperative Agreement at the time of closing and recordation and that the paragraph below is inserted at the bottom of the Agricultural Land Easement deed immediately before the signature pages:

*The Agricultural Land Easement is acquired with funds provided, in part, by the Agricultural Conservation Easement Program, ("ACEP") under **Cooperative Agreement Number [##-####-##-##] dated [Date of CA] between the [Cooperating Entity Name(s)] and the United States of America (the United States), acting by and through the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) on behalf of the Commodity Credit Corporation (CCC). The EXHIBIT \_\_\_\_ is attached hereto and incorporated herein by reference and shall run with the land in perpetuity, or for the maximum duration allowed under applicable State laws. As required by 16 U.S.C. § 3865 et seq and 7 CFR 1491 et seq and as a condition of receiving ACEP funds, all present and future use of the Protected Property is and shall remain subject to the terms and conditions described forthwith in this Addendum entitled Minimum Terms For The***

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*Protection Of Agricultural Use in EXHIBIT \_\_\_ which is appended to and made a part of this easement deed.*

E. If the **ENTITY** elects not to attach the Minimum Terms Exhibit to the Agricultural Land Easements acquired under this Cooperative Agreement, the **ENTITY** shall ensure that terms in the Minimum Terms Exhibit are included in every Agricultural Land Easement deed as stated in the Minimum Terms Exhibit. The terms may be formatted to select options where instructed, conform terms to deed formatting, complete terms with required information, and delete instructions to drafters.

F. NRCS may require adjustments to the provisions identified above and require the addition of other provisions if NRCS determines that they are necessary to meet the purposes of ACEP and protect the conservation values of the Protected Property.

G. Upon mutual agreement of the Parties, the Cooperative Agreement may be amended to replace or supplement the attached **Exhibit 7** with an Agricultural Land Easement deed template if the terms and conditions of the ALE Deed Template are approved by NRCS National Headquarters in advance of the amendment (NRCS NHQ Approved Deed Template).

### **IX. RESPONSIBILITIES.**

A. Those of all Parties: Ensure completion and approval of Agricultural Land Easement Plan, which must:

1. describe the activities which promote the long-term viability of the land to meet the purposes for which the easement was acquired;
2. identify conservation or management practices or activities that address the purposes and resource concerns for which the Parcel was selected;
3. require the management of any grasslands according to a grassland management plan or certain forest lands according to a forest management plan;
4. describe the conservation system applicable to any highly erodible cropland and describes the decisions of the landowner with respect to location, land use, tillage systems, and conservation treatment measures and schedules;
5. include a conservation plan, where appropriate; and
6. require, at the option of the Secretary, the conversion of highly erodible cropland to less intensive uses.

**ENTITY** will choose one of the two options below for completing the Agricultural Land Easement Plan, by initialing the appropriate box when signing this Cooperative Agreement. **(initial only one option):**

- A. **ENTITY** requests that NRCS personnel complete the Agricultural Land Easement Plan. **ENTITY** will coordinate with [State] NRCS and landowner to ensure that the plan is completed and signed by the landowner at or prior to closing. **ENTITY** will ensure [State] NRCS has authorized access to the property and landowner to coordinate with the landowner and **ENTITY** to complete plans that meet objectives of the landowner, **ENTITY**, and ACEP. NRCS will provide the funding necessary for NRCS personnel to complete the plans.
- B. **ENTITY** will not utilize NRCS personnel to complete the Agricultural Land Easement Plan that complies with the NRCS standards and specifications and other applicable industry standards. NRCS will not provide any additional funds to complete

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plans under this option. **ENTITY** must obtain NRCS approval of all Agricultural Land Easement Plans prepared using this option prior to closing. **ENTITY** will ensure [State] NRCS has authorized access to the property and landowner if needed to review and approve plans prepared using this option. **ENTITY** will provide the plan to NRCS at least 90 days prior to the anticipated closing to allow time for review and approval of the plan.

B. Those of the United States -

1. The United States, by and through the NRCS, shall provide technical and other services required to assist the landowner in developing an appropriate Agricultural Land Easement Plan that meets ACEP requirements and NRCS standards and specifications or applicable industry standards. To ensure that the Agricultural Land Easement Plan is implemented in accordance with such requirements, the NRCS will be provided the opportunity to conduct periodic field visits on lands that are enrolled in the ACEP.

2. The CCC shall, subject to the availability of funds, disburse the appropriate funds to the **ENTITY** in accordance with this Cooperative Agreement.

3. Prior to NRCS accepting the Agricultural Land Easement and processing the payment, the NRCS State Conservationist shall:

a. ensure that a conservation plan for highly erodible lands is developed in accordance with 7 CFR part 12 as part of an Agricultural Land Easement Plan and that an AD-1026 has been filed;

b. obtain approval of the Agricultural Land Easement deed from the National Headquarters; and

c. when funds are advanced to the Cooperating Entity prior to closing, acquire a signed letter from the closing agent indicating that the agent meets ACEP closing agent requirements, an executed NRCS Form 230, Confirmation of Matching Funds, and a copy of the title commitment.

d. shall conduct technical reviews of appraisals in accordance with NRCS Appraisal standards and specifications.

4. Prior to fund disbursement, NRCS shall certify payment for funded Parcels listed on Attachment A when the **ENTITY** has requested payment by the Payment Request Deadline and acquired Agricultural Land Easements on the funded Parcels in accordance with the terms of this agreement by the Closing Deadline.

C. Those of the **ENTITY**

1. The **ENTITY** shall perform necessary legal and administrative actions to ensure proper acquisition and recordation of valid Agricultural Land Easements.

2. The **ENTITY** shall pay all costs of Agricultural Land Easement procurement and will operate and manage each Agricultural Land Easement in accordance with the **ENTITY** program, this Cooperative Agreement, 7 CFR part 1491, and the Act. The United States shall have no responsibility for the costs or management of the Agricultural Land Easements purchased by the **ENTITY** unless the United States exercises its rights under an Agricultural Land Easement. The **ENTITY** shall indemnify, and hold the United States harmless for any costs, damages, claims, liabilities, and judgments arising from past, present, and future acts or omissions of the **ENTITY** in connection with its acquisition and management of the Agricultural Land Easements acquired pursuant to this Cooperative Agreement, however if

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the **ENTITY** is a governmental organization then the governmental organization shall indemnify, and hold the United States harmless as stated above to the extent it may under [Insert Citation to State Law]. This indemnification and hold harmless provision includes but is not limited to acts and omissions of the **ENTITY** agents, successors, assigns, employees, contractors, or lessees in connection with the acquisition and management of the Agricultural Land Easements acquired pursuant to this Cooperative Agreement which result in violations of any laws and regulations which are now or which may in the future become applicable.

3. Non-governmental organizations shall continue to meet the requirements specified in Title II, Subtitle E, Section 2301 of the Agricultural Act of 2014. The Act states an eligible organization is “any organization that—

- a. is organized for, and at all times since the formation of the organization has been operated principally for, 1 or more of the conservation purposes specified in clause (i), (ii), (iii), or (iv) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;
- b. is an organization described in section 501(c)(3) of that Code that is exempt from taxation under 501 (a) of that Code;
- c. is described in section 509 (a)(1) or (2) of that Code; or
- d. is described in section 509(a) (3) of that Code and is controlled by an organization described in section 509 (a) (2) of that Code.”

4. The **ENTITY** shall prepare a baseline documentation report documenting the condition of the Parcel as of the time the easement is acquired. The **ENTITY** must provide NRCS a completed baseline documentation report at least 90 days before the intended closing of the Agricultural Land Easement Deed. The baseline documentation report will contain maps and descriptions of property location, land use, land cover, crops and crop rotations, condition of the grassland, pasture, range, hay or forest lands, animal inventories and waste storage facilities, any critical nesting habitat for declining populations of grassland dependent birds, all physical structures and improvements, including barns, sheds, corrals, fences, ponds, watering facilities, and roads and any problem areas.

5. The **ENTITY** shall include in each Agricultural Land Easement deed, in which CCC funds are used as part of the acquisition, the terms set forth in Section VIII and Exhibit 7 of this Cooperative Agreement.

6. Prior to payment certification, the **ENTITY** shall ensure that all lands for which an Agricultural Land Easement has been acquired will have an Agricultural Land Easement Plan, as described in Section IX.A. of this Cooperative Agreement.

7. The **ENTITY** shall limit all non-agricultural uses of the encumbered properties, except for recreational uses, such as hiking, hunting, fishing, boating, and horseback riding to the extent those activities do not conflict with the purpose of Section 2301 of the Act.

8. At a minimum, the **ENTITY** shall monitor ACEP Protected Properties on an annual basis to ensure that the Agricultural Land Easements are being implemented according to the deed provisions. An annual report of the status of acquired Agricultural Land Easements will be submitted to the NRCS representative at the State level. The NRCS representative will define the format of this report.

9. In acquiring Agricultural Land Easements, the **ENTITY** shall ensure that the title to the lands or interests therein shall be unencumbered or, if encumbered by outstanding or reserved interests, the **ENTITY** shall ensure that any outstanding interests are subordinated to the

Agricultural Land Easement or that any exceptions from this subordination requirement are approved by the NRCS and are consistent with the purposes of the Agricultural Conservation Easement Program. The **ENTITY** shall provide to NRCS a copy of the title commitment or title report and any other requested documentation related to title at least 90 days before the intended closing date so that NRCS can review the title commitment to ensure there are no encumbrances that would allow non-agricultural use of the property that are not acceptable to NRCS. The **ENTITY** shall assure that proper title evidence is secured using an Owner's ALTA policy with the entity listed as the insured on the policy and the policy issued for an amount at least equal to the ACEP funds received for the acquisition.

10. The **ENTITY** will have an appraisal conducted on each Protected Property. The effective date of the appraisal must be within the 12 months prior to the closing on the Agricultural Land Easement on the Protected Property and NRCS accepting an interest in the Agricultural Land Easement. The appraisal will be conducted by a certified general appraiser and will conform to the Uniform Standards of Professional Appraisals Practices OR the Uniform Appraisal Standards for Federal Land Acquisitions (Interagency Land Acquisition Conference, 2000) and the NRCS appraisal specifications provided as exhibit 4 to this agreement. The appraiser must meet the qualifications found in section B (Appraiser Qualifications) of the NRCS appraisal specifications.

a. The **ENTITY** will provide the appraiser with the following items.

- (1) A copy of the NRCS appraisal specifications (Exhibit 4);
- (2) A copy of the Agricultural Land Easement deed to each appraiser conducting an appraisal for the Cooperating Entity;
- (3) Aerial photograph of the subject property with the location of the proposed easement area identified, access to the easement area identified, easement boundary identified, and an estimate of the acres in the proposed easement identified;
- (4) Legal description of subject property;
- (5) Aerial photograph indicating the location and acreage of any conservation agreement, contract, or easement of any type that is associated with any part of the subject property;
- (6) Recorded landowner's name, address, and telephone number;
- (7) Specific details of any existing easements, reservations, or other restriction currently encumbering the subject property as provided by the landowner;
- (8) Current information as to the status of title of ownership, such as copies of deeds;
- (9) A copy of the recorded written access to the entire easement area or evidence that the property is accessible from a public road;
- (10) A copy of preliminary title commitment, title report, or similar covering the proposed easement area; and
- (11) A copy of the NRCS Minimum Terms Exhibit.

b. The **ENTITY** must provide the appraiser with an Agricultural Land Easement deed and receive a separate appraisal report for each funded Parcel identified on Attachment A. The Agricultural Land Easement provided to the appraiser must address the

Agricultural Land Easement requirements of Section VIII and Exhibit 7 of this Cooperative Agreement.

c. The **ENTITY** will be listed as the client and NRCS will be listed as a user in the appraisal report. Under no circumstances will the **ENTITY** allow the landowner to approve or disapprove of the appraiser selected to prepare the appraisal report. The landowner cannot be listed as the client.

d. The **ENTITY** must provide NRCS a completed appraisal report at least 90 days before the intended closing of the Agricultural Land Easement. NRCS will conduct a technical review of the appraisal. The **ENTITY** will ensure that the Agricultural Land Easement is not closed until the technical reviewer approves the appraisal report. If the Agricultural Land Easement is closed prior to the approval of the appraisal by the technical reviewer then NRCS may not provide the Federal Contribution for the Agricultural Land Easement.

11. The **ENTITY** shall not use ACEP funds to place an easement on a property in which the **ENTITY's** employee or board member, with decision-making involvement in matters related to easement acquisition and management, has a property interest. The **ENTITY** shall not use ACEP funds to place an easement on a property in which a person who is an immediate family member or household member of an employee or board member, with decision-making involvement in matters related to easement acquisition and management, has a property interest. Further, the **ENTITY** agrees to generally conduct itself in a manner so as to protect the integrity of Agricultural Land Easements which it holds as well as avoid the appearance of impropriety or actual conflicts of interests in its acquisition and management of Agricultural Land Easements.

12. The **ENTITY** agrees that it will not at any time, when the **ENTITY** is named as a Grantee on the Agricultural Land Easement, seek to acquire the remaining fee interest in the Protected Property. Likewise, if the **ENTITY** enters into an agreement with another entity to manage or monitor the Agricultural Land Easement, and that entity seeks to acquire the underlying fee, the **ENTITY** agrees to immediately terminate such a relationship and arrange for an uninterested party to manage or monitor the Agricultural Land Easement.

13. The **ENTITY** may add substitute Parcels to the Cooperative Agreement during fiscal year 2014 if NRCS determines the Parcel ranks highly enough and is eligible for funding. Substitute Parcels are those that are eligible for funding and which have not been ranked high enough by NRCS to warrant funding at the current fund allocation levels. Substitute Parcels will be listed on Attachment A and not marked as funded. If a currently funded Parcel is removed from the Cooperative Agreement, funds obligated to the removed Parcel may be used to assist with the purchase of an Agricultural Land Easement on the next highest ranked substitute Parcel. No Parcels can be added to Attachment A to this agreement after September 30, 2014, and no new attachments can be added to this agreement after September 30, 2014.

a. Landowners associated with FY 2014 substitute Parcels must meet HEL/WC eligibility for FY 2014.

b. Entities offering a substitute Parcel must submit a Parcel Sheet (NRCS-CPA-41A) for each substitute Parcel, in addition to the Entity Application (NRCS-CPA-41) and Parcel Sheet for submitted for each funded Parcel;

c. Parcels listed on Attachment A as substitute Parcels must meet land eligibility criteria; except that they do not require a pending offer when they are added to Attachment A as a

substitute. However, prior to the substitute Parcel being eligible for funding, there must be

- (1) a written pending offer, and
- (2) the landowner must meet eligibility criteria for FY 2014.

d. The State Conservationist may require substitute Parcels to be re-ranked.

14. When a conservation plan violation is reported to the **ENTITY** by NRCS, after all administrative and appeal rights have been exhausted by the landowner in accordance with 7 CFR part 12 and 7 CFR part 614, the **ENTITY** shall implement easement enforcement procedures.

15. The **ENTITY** will report the Federal Cash for the advance of any funds and the Federal Expenditures and Unobligated Balance of funds using the Federal Financial Report Standard Form 425 (FFRs) (Exhibit 5). This will be submitted to the NRCS State office within 5 business days prior to December 31, March 31, June 30, and September 30 if the **ENTITY** closes an Agricultural Land Easement on a Parcel in this agreement during that fiscal quarter. *Reports shall be submitted on an accrual accounting basis. Failure to submit reports in accordance with the above schedule may result in suspension or termination of award. A final report shall be submitted no later than 90 days after the completion of the award. For final FFRs, reporting end date shall be the end date of the project or agreement period.*

16. This Paragraph and Paragraphs 3, 7, 8, 9, 12, 14 and 15 of this Section IX.C shall survive the closing of the Agricultural Land Easement and the termination or expiration of this agreement.

## **X. PUBLIC INFORMATION and CIVIL RIGHTS**

A. The **ENTITY** agrees to include USDA Natural Resources Conservation Service in any public news releases, events, brochures, fact sheets, etc. related to the acquisition of the properties listed in Attachment A that were acquired with ACEP funds under with this agreement.

B. The **ENTITY** agrees to provide to the NRCS [STATE] State Public Affairs Specialist for review and comment, before public release, draft copies of fact sheets or success stories developed for ACEP funded properties acquired under this agreement. This will be provided to NRCS a minimum of three (3) business days before publication. NRCS will return any comments to the **ENTITY** within two (2) business days of receipt of the draft publication.

C. The **ENTITY** agrees to comply with NRCS guidelines and requirements regarding the disclosure of information protected under Section 1619 of the Food, Conservation, and Energy Act of 2008 (PL 110-246), 7 U.S.C. 879. Activities performed under this agreement may involve access to confidential and potentially sensitive information about governmental and landowner issues. Confidential information means information or data of a personal nature, proprietary about an individual, or information or data submitted by or pertaining to an organization. This information shall not be disclosed without prior written consent of NRCS. The NRCS Freedom of Information Act (FOIA) officer should be contacted if there are any questions surrounding the disclosure of information pursuant to one of the exceptions of Section 1619.

## **XI. GENERAL PROVISIONS.**

A. If Agricultural Land Easements on all the Parcels listed on Attachment A or the substitution(s) for those Parcels are not closed or reimbursement is not requested by the dates indicated in Section IV, any remaining funds may be released from this obligation unless a written request to extend the closing or

NRCS Representative Initial \_\_\_\_\_

Recipient Representative Initial \_\_\_\_\_

reimbursement date is sent to the State Conservationist within 30 days of such date. A request to amend the expiration date of Attachment A must be sent to the State Conservationist a minimum of 60 days prior to the expiration date of Attachment A or these funds will be released from this obligation. Attachment A may be extended one time and the extension will not exceed twelve months. The Parties will not authorize further or additional extensions.

B. No assignment, in whole or in part, shall be made of any right or obligation under this Cooperative Agreement without the joint approval of both the United States and the **ENTITY**. Nothing herein shall preclude the United States or the **ENTITY** from entering into other mutually acceptable arrangements or agreements, except as identified in Section IX of this cooperative agreement. Such documents shall be in writing, reference this Cooperative Agreement, and shall be maintained as part of the official Cooperative Agreement file.

C. This Cooperative Agreement may be amended or modified by written amendment signed by the authorized officials of the United States and the **ENTITY**. In accordance with paragraph A of this section, the Cooperative Agreement may be extended for one twelve month period if extenuating circumstances occur with the individual Agricultural Land Easements.

D. The United States may terminate this Cooperative Agreement if the United States determines that the **ENTITY** has failed to comply with the provisions of this Cooperative Agreement or if it determines that it is in the best interests of the United States to terminate. In the event that this agreement is terminated for any reason, the financial obligations of the parties will be as set forth in 7 CFR parts 1403, 3016 and 3019, as applicable.

E. This Cooperative Agreement constitutes financial assistance and, therefore, all federal laws, regulations, and executive orders are applicable.

F. It is the intent of the United States to fulfill its obligations under this Cooperative Agreement. However, NRCS cannot make commitments in excess of funds authorized by law or made administratively available. If NRCS cannot fulfill its obligations under this Cooperative Agreement because of insufficient funds, this Cooperative Agreement will automatically terminate.

G. The **ENTITY** agrees to comply with all applicable state and local laws.

H. USDA employees shall be familiar and comply with Federal, State, local and USDA motor vehicle safety requirements and policies, including USDA's mandatory ban on text messaging as outlined in this regulation. (EO 13513, "Federal Leadership on Reducing Text Messaging While Driving," dated October 1, 2009 and 5 U.S.C. 7902(d) "Safety Programs").

I. If any recipient of Federal funds under this Cooperative Agreement materially fails to comply with the terms of this Cooperative Agreement, the United States reserves the right to wholly or partially recapture funds provided in accordance with applicable regulations.

## **XII. ADDENDUM and EXHIBITS.**

Attachment A – List of Agricultural Land Easement Parcels funded by NRCS

Exhibit 1 – General Terms and Conditions

Exhibit 2 – Form 230 Confirmation of Matching Funds

Exhibit 3 – Standard Form 270 (SF-270) Request for Advance or Reimbursement

Exhibit 4 – NRCS Appraisal and Technical Review Specifications

Exhibit 5 – Standard Form 425 (SF-425) Federal Financial Report

NRCS Representative Initial \_\_\_\_\_

Recipient Representative Initial \_\_\_\_\_

Award Identifying Number: \_\_\_\_\_

NEST Agreement Number: \_\_\_\_\_

Exhibit 6 – Representation Regarding Felony Convictions and Tax Delinquent Status for Corporate Applicants (AD-3031)

Exhibit 7 - Choose an item.

Choose an item.

**XIII. PRINCIPAL CONTACTS.**

The United States representative for this Cooperative Agreement is:

State Conservationist  
Natural Resources Conservation Service  
on behalf of the Commodity Credit Corporation  
Street Address  
City, State Zip Code  
Phone Number

The [ENTITY] representative for this Cooperative Agreement is:

Director  
[ENTITY]  
Street Address  
City, State Zip Code  
Phone Number

Choose an item.

PROGRAM: ACEP Funds Authorized	
Name/Title	Date
FNM: ACEP Funds Available	
Name/Title	Date
Amount: \$	_____
Acct. Code:	_____

NRCS Representative Initial \_\_\_\_\_

Recipient Representative Initial \_\_\_\_\_



**NOTICE OF GRANT AND AGREEMENT AWARD**

<b>1. Award Identifying Number</b>	<b>2. Amendment No.</b>	<b>3. Award/Project Period</b>	<b>4. Type of Award Instrument</b>				
<b>5. Agency: Natural Resources Conservation Service (NRCS) (Name and Address)</b>		<b>6. Recipient Organization: (Name and Address)</b>					
		<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%;"><b>DUNS:</b></td> <td style="width:50%;"><b>EIN:</b></td> </tr> <tr> <td> </td> <td> </td> </tr> </table>		<b>DUNS:</b>	<b>EIN:</b>		
<b>DUNS:</b>	<b>EIN:</b>						
<b>7. NRCS Program Contact:</b>	<b>8. NRCS Administrative Contact:</b>	<b>9. Recipient Program Contact:</b>	<b>10. Recipient Administrative Contact:</b>				
<b>11. CFDA Number</b>	<b>12. Authority</b>	<b>13. Type of Action</b>	<b>14. Project Director</b>				

**15. Project Title/Description:**

**16. Entity Type:** \_\_\_ Profit \_\_\_ Nonprofit \_\_\_ Higher Education \_\_\_ Federal \_\_\_ State/Local \_\_\_ Indian/Native American  
 \_\_\_ Other

<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:20%;"><b>17. Select Funding Type:</b></td> <td style="width:15%; text-align: center;"><input type="checkbox"/> <b>Federal</b></td> <td style="width:15%; text-align: center;"><input type="checkbox"/> <b>Non-Federal</b></td> </tr> <tr> <td>Original Funds Total:</td> <td> </td> <td> </td> </tr> <tr> <td>Additional Funds Total:</td> <td> </td> <td> </td> </tr> <tr> <td>Grand Total:</td> <td> </td> <td> </td> </tr> </table>	<b>17. Select Funding Type:</b>	<input type="checkbox"/> <b>Federal</b>	<input type="checkbox"/> <b>Non-Federal</b>	Original Funds Total:			Additional Funds Total:			Grand Total:			<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td colspan="4"><b>18. Accounting and Appropriation Data</b></td> </tr> <tr> <td style="width:25%;">Financial Code</td> <td style="width:25%;">Amount</td> <td style="width:25%;">Fiscal Year</td> <td style="width:25%;">Treasury Symbol</td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table>	<b>18. Accounting and Appropriation Data</b>				Financial Code	Amount	Fiscal Year	Treasury Symbol												
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Original Funds Total:																																	
Additional Funds Total:																																	
Grand Total:																																	
<b>18. Accounting and Appropriation Data</b>																																	
Financial Code	Amount	Fiscal Year	Treasury Symbol																														

<b>19. APPROVED BUDGET</b>			
Personnel	\$	Fringe Benefits	\$
Travel	\$	Equipment	\$
Supplies	\$	Contractual	\$
Construction	\$	Other	\$
Total Direct Cost\	\$	Total Indirect Cost	\$
		Total Non-Federal Funds	\$
		Total Federal Funds Awarded	\$
		Total Approved Budget	\$

This agreement is subject to applicable USDA NRCS statutory provisions and Financial Assistance Regulations. In accepting this award or amendment and any payments made pursuant thereto, the undersigned represents that he or she is duly authorized to act on behalf of the awardee organization, agrees that the award is subject to the applicable provisions of this agreement (and all attachments), and agrees that acceptance of any payments constitutes an agreement by the payee that the amounts, if any found by NRCS to have been overpaid, will be refunded or credited in full to NRCS.

(Continuation)

**NOTICE OF GRANT AND AGREEMENT AWARD**

Award Identifying Number	Amendment No.	Award/Project Period	Type of Award Instrument

Name and Title of Authorized Government Representative	Signature	Date
Name and Title of Authorized Recipient Representative	Signature	Date

**NONDISCRIMINATION STATEMENT**

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

**PRIVACY ACT STATEMENT**

The above statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. Section 522a).

## INSTRUCTIONS FOR NOTICE OF GRANT/AGREEMENT AWARD

1. Award Identifying Number:  
Agreement number
2. Amendment No.:  
Amendment number (if applicable)
3. Award/Project Period:  
Start and end date of project
4. Type of Award Instrument:  
Cooperative, Grant, or Contribution
5. Agency:  
Name, Address, City, State, ZIP Code
6. Recipient Organization:  
Name, Address, City, State, ZIP Code, DUNS (Data Universal Numbering System), and EIN (employee identification number)
7. NRCS Program Contact:  
Name and contact information of person to be contact on matters involving the programmatic aspects of the agreement
8. NRCS Administrative Contact:  
Name and contact information of person to be contact on matters involving the administrative aspects of the agreement
9. Recipient Contact:  
Name and contact information of person to be contact on matters involving the technical aspects of the agreement
10. Recipient Administrative Contact:  
Name and contact information of person to be contact on matters involving the administrative aspects of the agreement
11. CFDA Number:  
The Catalog of Federal Domestic Assistance number under which assistance is requested
12. Authority:  
Authority under which the agreement is entered into
13. Type of Action:  
Select one type of action:
  - i. New Agreement.—Agreement awarded for the first time
  - ii. Amendment/Revision.—Any change in financial obligation or deliverables
  - iii. Extension.—Extend performance period
14. Project Director:  
Name and contact information of project director or principal investigator (if applicable)
15. Project Title/Description:  
Brief description of the purpose of the agreement
16. Entity type:  
Type of recipient
17. Funding:  
Federal amount of the award and the non-Federal to be contributed to the project
18. Accounting/Appropriation Date:  
Provide the following:
  - i. Financial Code.—Accounting classification code
  - ii. Amount.—Self explanatory
  - iii. Fiscal Year.—Self explanatory
  - iv. Treasury symbol.—Self explanatory
19. Approved Budget:  
Totals for each budget category

**NOTICE OF GRANT AND AGREEMENT AWARD**

**CONTINUATION SHEET**

Award Identifying Number	Amendment No.	Award/Project Period	Type of Award Instrument

**Recipient Organization (Name and Address)**

DUNS:

EIN:

Name and Title of Authorized Recipient Representative	Signature	Date

**Recipient Organization (Name and Address)**

DUNS:

EIN:

Name and Title of Authorized Recipient Representative	Signature	Date

**Recipient Organization (Name and Address)**

DUNS:

EIN:

Name and Title of Authorized Recipient Representative	Signature	Date

**NATURAL RESOURCES CONSERVATION SERVICE  
U.S. DEPARTMENT OF AGRICULTURE**

**GENERAL TERMS AND CONDITIONS  
GRANTS AND COOPERATIVE AGREEMENTS**

**I. APPLICABLE REGULATIONS**

a. The recipient, and recipients of any subawards under this award, agree to comply with the following regulations, as applicable. (The full text of Code of Federal Regulations references may be found at <http://www.access.gpo.gov/nara/cfr/cfr-table-search.htm>1#page1.)

- (1) 7 CFR Section 3015.205, "General Provisions for Grants and Cooperative Agreements with Institutions of Higher Education, Other Nonprofit Organizations, and Hospitals"
- (2) 7 CFR Part 3016, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments"
- (3) 7 CFR Part 3017, "Governmentwide Debarment and Suspension (Nonprocurement)"
- (4) 7 CFR Part 3018, "New Restrictions on Lobbying"
- (5) 7 CFR Part 3019, "Uniform Administrative Requirements for Grant and Other Agreements with Institutions of Higher Education, Hospitals, and Nonprofit Organizations"
- (6) 7 CFR Part 3021, "Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)"
- (7) 7 CFR Part 3052, "Audits of States, Local Governments, and Nonprofit Organizations"
- (8) 2 CFR Part 215, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations"
- (9) Office of Management and Budget (OMB) Circular No. A-102, "Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments" (including Indian Tribal governments)
- (10) 2 CFR Part 25, "Universal Identifier and Central Contractor Registration"
- (11) 2 CFR Part 170 "Reporting Subaward and Executive Compensation Information"

b. The recipient, and recipients of any subawards under this award, assures and certifies that it will comply with the following regulations, as applicable. (The full text of Code of Federal Regulations references may be found at <http://www.access.gpo.gov/nara/cfr/cfr-table-search.htm>1#page1.)

- (1) 7 CFR Part 3017, "Governmentwide Debarment and Suspension (Nonprocurement)"
- (2) 7 CFR Part 3018, "New Restrictions on Lobbying"
- (3) 7 CFR Part 3021, "Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)"
- (4) 7 CFR Part 3052, "Audits of States, Local Governments, and Nonprofit Organizations"
- (5) Public Law 109-282, "Federal Funding Accountability and Transparency Act of 2006"
- (6) 2 CFR Section 175, "Award Term for Trafficking in Persons"

- c. Allowable project costs will be determined in accordance with the authorizing statute, the purpose of the award, and to the extent applicable to the type of organizations receiving the award, regardless of tier. The following portions of the Code of Federal Regulations are hereby incorporated by reference (the full text of Code of Federal Regulations references may be found at <http://www.access.gpo.gov/nara/cfr/cfr-table-search.htm1#page1>):

- (1) 2 CFR Part 220, "Cost Principles for Institutions of Higher Education"
- (2) 2 CFR Part 225, "Cost Principles for State and Local Governments (Including Certain Indian Tribal Governments)"
- (3) 2 CFR Part 230, "Cost Principles for Nonprofit Organizations"
- (4) 48 CFR Part 31, "Contract Cost Principles and Procedures"

## II. UNALLOWABLE COSTS

The following costs are not allowed:

- a. Costs above the amount authorized for the project
- b. Costs incurred after the expiration of the award including any no-cost extensions of time
- c. Costs that lie outside the scope of the approved project and any amendments thereto
- d. Compensation for injuries to persons or damage to property arising from project activities

This list is not exhaustive. Questions about the allowability of particular items of costs should be directed to the NRCS administrative contact identified in the award.

## III. CONFIDENTIALITY

- a. Activities performed under this award may involve access to confidential and potentially sensitive information about governmental and landowner issues. The term "confidential information" means proprietary information or data of a personal nature about an individual, or information or data submitted by or pertaining to an organization. This information must not be disclosed without the prior written consent of NRCS.
- b. The recipient's personnel will follow the rules and procedures of disclosure set forth in the Privacy Act of 1974, 5 U.S.C. Section 552a, and implementing regulations and policies with respect to systems of records determined to be subject to the Privacy Act. The recipient's personnel must also comply with privacy of personal information relating to natural resources conservation programs in accordance with section 1244 of Title II of the Farm Security and Rural Investment Act of 2002 (Public Law 107-171).

## IV. PRIOR APPROVAL REQUIREMENTS

The following are the most common situations requiring prior approval. However, the recipient is also bound by any other prior approval requirements of the applicable administrative provisions and Federal cost principles.

- a. Purpose or Deliverables.—When it is necessary for the recipient to modify the purpose or deliverables, the recipient must submit a written request and justification for the change along with the revised purpose or deliverables of the award to the NRCS administrative contact. The request should contain the following:
  - 1. Grant or agreement number
  - 2. Narrative explaining the requested modification to the project purpose or deliverables
  - 3. A description of the revised purpose or deliverables
  - 4. Signatures of the authorized representative, project director, or both
- b. Subcontractual Arrangement.—The recipient must submit a justification for the proposed subcontractual arrangements, a statement of work to be performed, and a detailed budget for

the subcontract to the NRCS administrative contact. Subcontractual arrangements disclosed in the application do not require additional postaward approval.

- c. **Absence or Change in Project Leadership.**—When a project director or the person responsible for the direction or management of the project—
1. Relinquishes active direction of the project for more than 3 consecutive months or has a 25 percent or more reduction in time devoted to the project, the grantee must notify the NRCS administrative contact in writing, identifying who will be in charge during the project director's absence. The notification must include the qualifications and the signature of the replacement, signifying his or her willingness to serve on the project.
  2. Severs his or her affiliation with the grantee, the grantee's options include—
    - i. Replacing the project director. The grantee must request written approval of the replacement from the NRCS administrative contact and must include the qualifications and the signature of the replacement signifying his or her willingness to serve on the project.
    - ii. Subcontracting to the former project director's new organization. The grantee must request approval from the administrative contact to replace the project manager and retain the award, and to subcontract to the former project director's new organization certain portions of the project to be completed by the former project director.
    - iii. Relinquishing the award. The grantee must submit to the NRCS administrative contact a signed letter by the grantee and the project director that indicates that the grantee is relinquishing the award. The letter must include the date the project director is leaving and a summary of progress to date. A final Standard Form (SF) 425 reflecting the total amount of funds spent by the recipient must be attached to the letter.
  3. Transfers the award to his or her new organization, the authorized organization's representative at the new organization must submit the following to the NRCS administrative contact as soon as the transfer date is firm and the amount of funds to be transferred is known:
    - i. The forms and certifications included in the application package
    - ii. A project summary and work statement covering the work to be completed under the project (deliverables and objectives must be the same as those outlined in the approved proposal)
    - iii. An updated qualifications statement for the project director showing his or her new organizational affiliation
    - iv. Any cost-sharing requirements under the original award transfer to the new institution; therefore, cost-sharing information must be included in the proposal from the new organization
- Note:** The transfer of an award from one organization to another can take up to 90 days to accomplish, which may result in a delay in the project director resuming the project at the new organization.
- d. **Budget Revisions.**—Budget revisions will be in accordance with 7 CFR Section 3015.115.
- e. **No-Cost Extensions of Time.**—When a no-cost extension of time is required, the recipient must submit a written request to the NRCS administrative contact no later than 30 days before the expiration date of the award. The request must contain the following:
- The length of additional time required to complete the project and a justification for the extension
  - A summary of progress to date

- An estimate of funds expected to remain unobligated on the scheduled expiration date
- A projected timetable to complete the portions of the project for which the extension is being requested
- Signature of the grantee and the project director
- A status of cost sharing to date (if applicable)

**Note:** An extension will not exceed 12 months. Only in exceptional cases will more than one extension be granted. Requests for no-cost extensions received after the expiration of the award will not be granted.

**V. PAYMENTS**

- a. Payment by NRCS to the entity will be made monthly or quarterly (whichever is mutually agreed upon by both parties) on a reimbursable or advanced basis upon completion of work outlined herein. Payment will be executed upon the submission of a properly executed form SF-270. The SF-270 must cite the agreement number, remittance address, and billing period. The SF-270 must be sent to the NRCS program contact at the address identified in block 7 of the Notice of Grant/Agreement Award.
- b. Unless otherwise specified in the award, the recipient must receive payments through electronic funds transfers.
- c. Recipients requesting advances should request payments in amounts necessary to meet their current needs pursuant to procedures contained in the Federal administrative provisions and **31 CFR Part 205**.
- d. The method of payment between the recipient and its contractors will be in accordance with the policies and procedures established by the recipient except that the contractors may not use the USDA Office of Financial Management/National Finance Center method to request payments. If the grantee makes advance payments to contractors, the grantee must ensure that the timing of such payments is designed to minimize elapsed time between the advance payment and the disbursement of funds. Payment requests from the grantee's contractors will not be sent to NRCS for review or approval.
- e. Accounting records for all costs incurred under this award must be supported by source documentation. Such documentation includes, but is not limited to, canceled checks, paid bills, payroll records, and subcontract award documents. Labor cost charges to this award must be based upon salaries actually earned and the time actually worked on this award. All project costs must be incurred within the approved project period of this award, including any approved no-cost extension of time. Costs that cannot be supported by source documentation or that are incurred outside of the approved project period and budget may be disallowed and may result in award funds being returned to the Federal Government by the recipient.

**VI. FINANCIAL REPORTING**

- a. Recipients must submit a Federal Financial Report (FFR), SF 425 and 425A, in accordance with the following schedule (recipients may download the applicable form at <http://www.forms.gov>):

<u>Quarterly Schedule</u>	<u>Report Due Date</u>
October 1 to December 31	January 31
January 1 to March 31	April 30
April 1 to June 30	July 30
July 1 to September 30	October 30

Reports must be submitted on an accrual accounting basis. Failure to submit reports in accordance with the above schedule may result in suspension or termination of award.

- b. A final Report must be submitted no later than 90 days after the completion of the award. For final FFRs, reporting end date must be the end date of the project or agreement period. The reports should be submitted to the NRCS administrative contact identified in award notifications.

## **VII. PERFORMANCE MONITORING AND REPORTING**

- a. The recipient is responsible for monitoring day-to-day performance and for reporting to NRCS. If the project involves subcontractual arrangements, the recipient is also responsible for monitoring the performance of project activities under those arrangements to ensure that approved goals and schedules are met.
- b. Every 6 months the recipient must submit a written progress report. Each report must cover—
  - 1. A comparison of actual accomplishments with the goals and objectives established for the reporting period and, where project output can be quantified, a computation of the costs per unit of output.
  - 2. The reasons why goals and objectives were not met, if appropriate.
  - 3. Additional pertinent information including, where appropriate, analysis and explanation of cost overruns or high unit cost.
- c. The recipient must submit a final performance report within 90 days after completion of project.

## **VIII. SPECIAL PROVISIONS**

- a. The recipient assures and certifies that it will comply with the minimum-wage and maximum-hour provisions of the Federal Fair Labor Standards Act.
- b. Employees of NRCS will participate in efforts under this agreement solely as representatives of the United States. To this end, they may not participate as directors, officers, employees, or otherwise serve or hold themselves out as representatives of the recipient. They also may not assist the recipient with efforts to lobby Congress or to raise money through fundraising efforts. Further, NRCS employees must report to their immediate supervisor any negotiations with the recipient concerning future employment and must refrain from participation in efforts regarding such parties until approved by the agency.
- c. Employees of the recipient will not be considered Federal employees or agents of the United States for any purposes under this agreement.

## **IX. PATENTS, INVENTIONS, COPYRIGHTS, AND ACKNOWLEDGMENT OF SUPPORT AND DISCLAIMER**

- a. Allocation of rights of patents, inventions, and copyrights must be in accordance with 7 CFR Section 3019.36. This regulation provides that small businesses normally may retain the principal worldwide patent rights to any invention developed with USDA support.
- b. In accordance with 37 CFR Section 401.14, each subject invention must be disclosed to the Federal agency within 2 months after the inventor discloses it in writing to contractor

personnel responsible for patent matters. Invention disclosure statements pursuant to 37 CFR Section 401.14(c) must be made in writing to:

Acquisitions Division  
Grants and Agreements Team  
1400 Independence Avenue, SW.  
Room 5221 South Building  
Washington, DC 20250

- c. USDA receives a royalty-free license for Federal Government use, reserves the right to require the patentee to license others in certain circumstances, and requires that anyone exclusively licensed to sell the invention in the United States must manufacture it domestically.
- d. The following acknowledgment of NRCS support must appear in the publication of any material, whether copyrighted or not, and any products in electronic formats (World Wide Web pages, computer programs, etc.) that is substantially based upon or developed under this award:
  - “This material is based upon work supported by the Natural Resources Conservation Service, U.S. Department of Agriculture, under number [recipient should enter the applicable award number here].”

In addition, all publications and other materials, except scientific articles or papers published in scientific journals, must include the following statement:

- “Any opinions, findings, conclusions, or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Agriculture.”

The recipient is responsible for ensuring that an acknowledgment of NRCS is made during news media interviews, including popular media such as radio, television, and news magazines, that discuss in a substantial way work funded by this award.

## **X. COST-SHARING REQUIREMENTS**

- a. If the award has specific cost-sharing requirements, the cost-sharing participation in other projects may not be counted toward meeting the specific cost-share requirement of this award, and must come from non-Federal sources unless otherwise stated in the applicable program announcement.
- b. Should the recipient become aware that it may be unable to provide the cost-sharing amount identified in this award, it must—
  1. Immediately notify the NRCS administrative contact of the situation.
  2. Specify the steps it plans to take to secure replacement cost sharing.
  3. Indicate the plans to either continue or phase out the project in the absence of cost sharing.
- c. If NRCS agrees to the organization’s proposed plans, the recipient will be notified accordingly. If the organization’s plans are not acceptable to NRCS, the award may be subject to termination. NRCS modifications to proposed cost sharing revisions are made on a case-by-case basis.
- d. Failure by the recipient to notify NRCS in accordance with paragraph (b) above may result in the disallowance of some or all the costs charged to the award, the subsequent recovery by NRCS of some of the NRCS funds provided under the award, and possible termination of the

award, and may constitute a violation of the terms and conditions of the award so serious as to provide grounds for subsequent suspension or debarment.

- e. The recipient must maintain records of all project costs that are claimed by the recipient as cost sharing as well records of costs to be paid by NRCS. If the recipient's cost participation includes in-kind contributions, the basis for determining the valuation for volunteer services and donated property must be documented.

#### **XI. PROGRAM INCOME**

Income derived from patents, inventions, or copyrights will be disposed of in accordance with the recipient's own policies. General program income earned under this award during the period of NRCS support must be added to total project funds and used to further the purpose and scope of this award or the legislation under which this award is made.

#### **XII. NONEXPENDABLE EQUIPMENT**

Recipients purchasing equipment or products with funds provided under this award are encouraged to use such funds to purchase only American-made equipment and products. Title to nonexpendable equipment purchased with award funds will vest in the recipient upon completion of the award project and acceptance by NRCS of required final reports. When equipment is no longer needed by the recipient and the per-unit fair market value is less than \$5,000, the recipient may retain, sell, or dispose of the equipment with no further obligation to NRCS. However, if the per-unit fair market value is \$5,000 or more, the recipient must submit a written request to the NRCS administrative contact for disposition instructions.

#### **XIII. LIMIT OF FEDERAL LIABILITY**

The maximum financial obligation of NRCS to the recipient is the amount of funds indicated in the award as obligated by NRCS. However, in the event that an erroneous amount is stated on the approved budget, or any supporting document relating to the award, NRCS will have the unilateral right to make the correction and to make an appropriate adjustment in the NRCS share of the award to align with the Federal amount authorized.

#### **XIV. MODIFICATIONS AND TERMINATIONS**

NRCS may amend or modify the award through an exchange of correspondence between authorized officials of the recipient and NRCS. The award is subject to termination if NRCS determines that the recipient has failed to comply with the terms and conditions of the award. In the event that the award is terminated, the financial obligations of the parties will be those set forth in 7 CFR Part 3015, Subpart N.

#### **XV. AWARD CLOSEOUT**

Award closeout is the process by which NRCS determines that all required project activities have been performed satisfactorily and all necessary administrative actions have been completed.