

Commodity Credit Corporation, USDA

§ 1466.27

(2) Termination of the contract would, as determined by the State Conservationist, be in the public interest; or

(3) A participant fails to correct a contract violation within the time period defined by NRCS.

(b) If a contract is terminated in accordance with the provisions of paragraphs (a)(1) and (a)(2) of this section, the State Conservationist may allow the participant to retain a portion of any payments received appropriate to the effort the participant has made to comply with the contract, or, in cases of hardship, where forces beyond the participant's control prevented compliance with the contract. If a participant claims hardship, such claims must be clearly documented and cannot have existed when the applicant applied for participation in the program.

(c) If NRCS determines that a participant is in violation of the terms of a contract, O&M agreement, or documents incorporated by reference into the contract, NRCS shall give the participant a period of time, as determined by NRCS, to correct the violation and comply with the terms of the contract and attachments thereto. If a participant continues in violation, NRCS may terminate the EQIP contract in accordance with §1466.26(e).

(d) Notwithstanding the provisions of paragraph (c) of this section, a contract termination shall be effective immediately upon a determination by NRCS that the participant has submitted false information or filed a false claim, or engaged in any act, scheme, or device for which a finding of ineligibility for payments is permitted under the provisions of §1466.35, or in a case in which the actions of the party involved are deemed to be sufficiently purposeful or negligent to warrant a termination without delay.

(e) If NRCS terminates a contract due to breach of contract, the participant will forfeit all rights to future payments under the contract, pay liquidated damages, and refund all or part of the payments received, plus interest. Participants violating EQIP contracts may be determined ineligible for future NRCS-administered conservation program funding.

(1) NRCS may require a participant to provide only a partial refund of the payments received if a previously installed conservation practice can function independently, is not adversely affected by the violation or the absence of other conservation practices that would have been installed under the contract.

(2) The State Conservationist will have the option to reduce or waive the liquidated damages, depending upon the circumstances of the case.

(i) When terminating a contract, NRCS may reduce the amount of money owed by the participant by a proportion that reflects the good faith effort of the participant to comply with the contract or the existence of hardships beyond the participant's control that have prevented compliance with the contract. If a participant claims hardship, that claim must be well documented and cannot have existed when the applicant applied for participation in the program.

(ii) In carrying out its role in this section, NRCS may consult with the local conservation district.

(f) The State Conservationist, in consultation with the State Technical Committee, may terminate a contract whereby a producer is receiving payments for conservation practices related to organic production, if the designated conservationist determines that the producer is not pursuing organic certification, or has been decertified.

[74 FR 2313, Jan. 15, 2009]

§ 1466.27 Conservation Innovation Grants (CIG).

(a) *Definitions.* In addition to the terms defined in §1466.3 of this part, the following definitions shall be applicable to this section:

(1) *EQIP eligible* means any farming entity, land, and practice that meets the definitions of EQIP as defined in 7 CFR 1466.

(2) *Grant agreement* means a document describing a relationship between NRCS and a State or local government, or other recipient whenever the principal purpose of the relationship is the

transfer of a thing of value to a recipient in order to accomplish a public purpose of support or stimulation authorized by Federal law, and substantial Federal involvement is not anticipated.

(3) *Grant Review Board* consists of the NRCS Deputy Chief for Programs, Deputy Chief for Science and Technology, Deputy Chief for Soil Survey and Resource Assessment, one Regional Assistant Chief, and one State Conservationist. The Review Board makes recommendations for grant awards to the Chief.

(4) *Peer Review Panel* means a panel consisting of Federal and non-Federal technical advisors who possess expertise in a discipline or disciplines deemed important to provide a technical evaluation of project proposals submitted under this notice.

(5) *Project* means the activities as defined within the scope of the grant agreement.

(6) *Project Director* means the individual responsible for the technical direction and management of the project as designated in the application.

(b) *Purpose and scope*—(1) *Purpose*. The purpose of CIG is to stimulate the development and adoption of innovative conservation approaches and technologies while leveraging Federal investment in environmental enhancement and protection, in conjunction with agricultural production. Notwithstanding any limitation of this part, NRCS will administer CIG in accordance with this section. Unless otherwise provided for in this section, the provisions of 7 CFR 3015 and related Departmental regulations will be used to administer grants under CIG.

(2) *Geographic scope*. Applications for CIG are accepted from the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(3) *Program scope*. Grants will be awarded using a two-tiered process. A nationwide grants competition will be announced in the FEDERAL REGISTER. In addition, at the Chief's discretion, each State Conservationist may implement a separate State-level component of CIG.

(4) *Program focus*. Applications for CIG should demonstrate the use of innovative approaches and technologies to leverage Federal investment in environmental enhancement and protection, in conjunction with agricultural production. CIG will fund projects that promote innovative on-the-ground conservation, including pilot projects and field demonstrations of promising approaches or technologies. CIG projects are expected to lead to the transfer of conservation technologies, management systems, and innovative approaches (such as market-based systems) into NRCS technical manuals and guides, or to the private sector. Technologies and approaches eligible for funding in a project's geographic area through EQIP are not eligible for CIG funding except where the use of those technologies and approaches demonstrates clear innovation. The burden falls on the applicant to sufficiently describe the innovative features of the proposed technology or approach.

(5) *Innovative conservation projects or activities*. For the purposes of CIG, the proposed innovative project or activity must encompass the development and field testing, evaluation, and implementation of:

(i) Conservation adoption incentive systems, including market-based systems; or,

(ii) Promising conservation technologies, practices, systems, procedures, and approaches.

To be given priority consideration, the innovative project or activity:

(iii) Will have been studied sufficiently to indicate a good probability for success;

(iv) Demonstrates, tests, evaluates, or verifies environmental (soil, water, air, plants, and animal) effectiveness, utility, affordability, and usability in the field;

(v) Adapts conservation technologies, practices, systems, procedures, approaches, and incentive systems to improve performance, and encourage adoption;

(vi) Introduces conservation systems, approaches, and procedures from another geographic area or agricultural sector; and

(vii) Adapts conservation technology, management, or incentive systems to improve performance.

(c) *Availability of funding.* (1) CIG funding will be available for single-or multi-year projects. Funding for CIG will be announced in the FEDERAL REGISTER through a Request for Proposals (RFP). The Chief will determine the funding level for CIG on an annual basis. Funds for CIG are derived from funds made available for EQIP. The Chief may establish funding limits for individual grants.

(2) Selected applicants may receive grants of up to 50 percent of the total project cost. Applicants must provide non-Federal funding for at least 50 percent of the project cost, of which up to one-half (25 percent of total project cost) may be from in-kind contributions. An exception regarding matching funds may be made for grants that are awarded to either a Beginning or Limited Resource Farmer or Rancher, or Indian Tribe, or a community-based organization comprised of or representing these entities. Up to 75 percent of the required matching funds for these projects may derive from in-kind contributions.

(3) CIG is designed to provide financial assistance to grantees. Procurement of any technical assistance required to carry out a project is the responsibility of the grantee. Technical oversight for grant projects will be provided by a Federal grant representative, who will be designated by NRCS.

(4) There are some costs that grantees may not cover using CIG funds, such as costs incurred prior to the effective date of the grant, entertainment costs, any indirect cost exceeding fifteen percent, or renovation or refurbishment of facilities. A detailed list of costs not allowed will be published in the Request for Proposals.

(d) *Natural resource conservation concerns.* CIG applications must describe the use of innovative approaches or technologies to address a natural resource conservation concern or concerns. The natural resource concerns for CIG will be identified by the Chief, and may change each year. The natural resource concerns will be published in the RFP.

(e) *Eligibility information*—(1) *Organization or individual eligibility.* To be eligible, CIG applicants must be an Indian Tribe; State or local unit of government; non-governmental organization; or individual.

(2) *Project eligibility.* To be eligible, projects must involve landowners who meet the eligibility requirements of §1466.8(b)(1) through (3) of this part. Further, all agricultural producers receiving a direct or indirect payment through participation in a CIG project must meet those eligibility requirements.

(3) *Beginning and Limited Resource Farmers and Ranchers, and Indian Tribes.* Up to 10 percent of the total funds available for CIG may be set-aside for applications from either a Beginning or Limited Resource Farmer or Rancher, or Indian Tribe, or a community-based organization comprised of or representing these entities. Funds not awarded from the set-aside pool will revert back into the general CIG funding pool.

(f) *Application and submission information.* The CIG RFP will contain guidance on how to apply for the grants competition. CIG will be advertised through the FEDERAL REGISTER, the NRCS Web site, and *grants.gov*. Grant applications will be available on the NRCS Web site, or by contacting NRCS at the address provided in the RFP. CIG grant applications will consist of standard cover sheet and budget forms, in addition to a narrative project description and required legal declarations and certifications.

(g) *Application review and grant awards.* Complete applications will be evaluated by a peer review panel and scored based on the Criteria for Proposal Evaluation identified in the RFP. Scored applications will be forwarded to a Grant Review Board. The Grant Review Board will make recommendations for awards to the Chief. Final award selections will be made by the Chief. Grant awards will be made by the NRCS National Office after selection of the grantees is made and after the grantee agrees to the terms and conditions of the NRCS Grant document.

§ 1466.30

(h) *State component.* (1) At the discretion of the Chief, each State Conservationist has the option of implementing a State-level CIG component. A State program will follow the requirements of this section, except for those features described in this paragraph (h).

(2) Funding availability, application, and submission information for State competitions will be announced through public notices (and on the State NRCS Web site), separately from the national program. The State component will emphasize projects that cover limited geographic areas, including individual farms, multi-county areas, or small watersheds.

(3) The State Conservationist will determine the funding level for the grants competition, with individual grants not to exceed \$75,000.

(4) The State Conservationist may choose to adhere to the CIG national natural resource concerns, or may select a subset of those concerns that more closely match the natural resource concerns in his or her State.

(5) Applications will be scored by the State Technical Committee, or a subcommittee thereof, based on the national Criteria for Proposal Evaluation published in the CIG RFP. Scored applications will be forwarded to the State Conservationist, who will make the award selections.

(6) In addition to abiding by the in-kind contribution exception for Limited Resource and Beginning Farmers and Ranchers, and Indian Tribes in paragraph (c)(2) of this section, the State Conservationist in each participating State will determine if and how to provide additional special consideration to underserved groups.

(i) *Grant agreement.* The CCC, through NRCS, will use a grant agreement with selected grantees to document participation in CIG.

(j) *Patents and inventions.* Allocation of rights to patents and inventions shall be in accordance with USDA regulation 7 CFR 3019.36. This regulation provides that small businesses normally may retain the principal worldwide patent rights to any invention developed with USDA support. In accordance with 7 CFR 3019.2, this provision will also apply to commercial organizations for the purposes of CIG. USDA re-

7 CFR Ch. XIV (1–1–13 Edition)

ceives 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 normally manufacture it domestically.

(k) *Violations.* A person found in violation of this section is subject to the provisions contained in 7 CFR part 3015 and related Departmental regulations.

[69 FR 16397, Mar. 29, 2004; 70 FR 1791, Jan. 11, 2005; 74 FR 2316, Jan. 15, 2009]

Subpart C—General Administration

SOURCE: 74 2316, Jan. 15, 2009, unless otherwise noted.

§ 1466.30 Appeals.

A participant may obtain administrative review of an adverse decision under EQIP in accordance with parts 11 and 614 of this title. Determination in matters of general applicability, such as payment rates, payment limits, the designation of identified priority resource concerns, and eligible conservation practices are not subject to appeal.

§ 1466.31 Compliance with regulatory measures.

Participants who carry out conservation practices shall be responsible for obtaining the authorities, rights, easements, permits, or other approvals necessary for the implementation, operation, and maintenance of the conservation practices in keeping with applicable laws and regulations. Participants shall be responsible for compliance with all laws and for all effects or actions resulting from the participant's performance under the contract.

§ 1466.32 Access to operating unit.

Any authorized NRCS representative shall have the right to enter an agricultural operation or tract for the purposes of determining eligibility and for ascertaining the accuracy of any representations related to contract performance. Access shall include the right to provide technical assistance, determine eligibility, inspect any work