

§ 1464.27

(1) To facilitate the conveyance of an easement to an eligible entity by a producer;

(2) To implement an eligible activity that is available under 7 CFR part 622, except for the Watershed Rehabilitation Program set forth in 16 U.S.C. 1012;

(3) Other situations where a program contract requires the integration of a supplemental agreement to facilitate the implementation of an eligible activity, as determined by NRCS.

(e) *Term.* A supplemental agreement will be for a term that is within the term of a partnership agreement unless NRCS determines that the term of the supplemental agreement should extend beyond the term of the partnership agreement to ensure appropriate assistance to participating producers or completion of an eligible activity.

(f) *Noncompliance and remedies.* NRCS will incorporate in a supplemental agreement:

(1) The procedures required in the event of a determination that the lead partner or nonlead partner is not in compliance with the terms and conditions of the supplemental agreement;

(2) The consequences for failure to remedy noncompliance, including termination of the supplemental agreement, the requirement to repay any payments received, forfeit any future payments, and the availability of liquidated damages;

(3) The impacts of termination of the supplemental agreement upon the partnership agreement or any associated program contract;

(4) The availability, if any, of administrative review of NRCS determinations under § 1464.40; and

(5) Other terms and conditions NRCS determines necessary to ensure the effective delivery of program resources to producers.

§ 1464.27 Third-party contracts or agreements.

(a) Lead and nonlead partners may employ third-party contracts or agreements to fulfill their obligations under a partnership or supplemental agreement, subject to approval by the Chief or as allowed per the terms of the partnership or supplemental agreement.

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(b) Any costs to a lead or nonlead partner as part of a third-party contract or agreement as described in paragraph (a) of this section may constitute all or part of a partner contribution described in § 1464.22(d)(4) to the extent that such costs directly relate to fulfilling the obligations of a partnership or supplemental agreement, as determined by NRCS.

(c) NRCS may employ third-party contracts or agreements in order to meet its responsibilities under the terms of an approved partnership agreement, supplemental agreement, or program contract, including but not limited to easement acquisition services, implementation services, or other goods or services NRCS determines are necessary to meet its responsibilities under RCPP.

Subpart C—Program Contracts

§ 1464.30 Application for program contracts and selecting applications for funding.

(a) *Evaluation guidelines.* In evaluating program contract applications, NRCS may take into consideration the following guidelines:

(1) Any producer who has eligible land in a project area encompassed by a partnership agreement may submit an application for participation in RCPP.

(2) To the greatest extent practicable, applications for similar eligible activities may be grouped together in ranking pools for evaluation and ranking purposes.

(3) Upon execution of a partnership agreement, NRCS will accept producer applications for funding under such agreement throughout the fiscal year and may be evaluated and ranked on a continuous or ranking-period basis.

(4) NRCS may give priority to applications that are submitted as part of a bundle submitted by a lead partner.

(5) In selecting RCPP applications, NRCS will develop an evaluation and ranking process to prioritize eligible applications for funding that address the purposes of the project or CCA, including treating the identified project or priority resource concerns, as applicable.