



BOARD OF SUPERVISORS AGENDA ITEM REPORT
AWARDS / CONTRACTS / GRANTS

☐ Award ☐ Contract ☒ Grant

Requested Board Meeting Date: 8/10/2021
or Procurement Director Award:

* = Mandatory, information must be provided

***Contractor/Vendor Name/Grantor (DBA):**

United States Department of Agriculture, Natural Resources Conservation Service

***Project Title/Description:**

Pima County Brawley Wash Watershed Plan/EA (Plan)

***Purpose:**

To develop a watershed restoration plan for the Brawley Wash. The Plan was approved by the Board at its 8/17/2020 meeting; this extends the date and increases the award amount to reflect the higher Stantec contract cost.

***Procurement Method:**

Not Applicable

***Program Goals/Predicted Outcomes:**

The Plan will identify ways to reduce flooding and erosion in the Brawley Wash, resulting in improved public safety and reduced risk to infrastructure. It will also identify alternatives that will have a net benefit to costs for agriculture.

***Public Benefit:**

Reduced risk from flooding and erosion to people and property, as well as improve wildlife habitat.

***Metrics Available to Measure Performance:**

Development of a plan suitable for implementation

***Retroactive:**

Yes

THE APPLICABLE SECTION(S) BELOW MUST BE COMPLETED
Click or tap the boxes to enter text. If not applicable, indicate "N/A"
Make sure to complete mandatory (*) fields

Contract / Award Information

Document Type:

Department Code:

Contract Number (i.e., 15-123):

Commencement Date:

Termination Date:

Prior Contract Number (Synergen/CMS):

☐ Expense Amount: \$*

☐ Revenue Amount:

***Funding Source(s) required:**

Funding from General Fund? ☐ Yes ☐ No If Yes \$ %

Contract is fully or partially funded with Federal Funds?

If Yes, is the Contract to a vendor or subrecipient?

Were insurance or indemnity clauses modified? ☐ Yes ☐ No

If Yes, attach Risk's approval.

Vendor is using a Social Security Number? ☐ Yes ☐ No

If Yes, attach the required form per Administrative Procedure 22-10.

G.M. Approved 7/27/21 LLS

Amendment / Revised Award Information

Document Type: Department Code: Contract Number (i.e.,15-123):

Amendment No.: AMS Version No.:

Commencement Date: New Termination Date:

Prior Contract No. (Synergen/CMS):

☐ Expense ☐ Revenue ☐ Increase ☐ Decrease

Amount This Amendment: \$

Is there revenue included? ☐ Yes ☐ No If Yes \$***Funding Source(s) required:**

Funding from General Fund? If Yes \$ %

Grant/Amendment Information (for grants acceptance and awards)☐ Award ☐ Amendment

Document Type: GTAM Department Code: FC Grant Number (i.e.,15-123): 21*101

Commencement Date: 8/20/2020 Termination Date: 6/30/2023 Amendment Number: 001

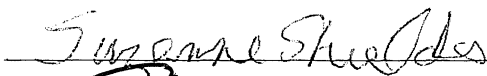
☐ Match Amount: \$ ☒ Revenue Amount: \$ 154,494.48***All Funding Source(s) required:*****Match funding from General Fund?** ☐ Yes ☒ No If Yes \$ %***Match funding from other sources?** ☐ Yes ☒ No If Yes \$ %***Funding Source:*****If Federal funds are received, is funding coming directly from the Federal government or passed through other organization(s)?**

Contact: Evan Canfield

Department: Regional Flood Control District

Telephone: 724-6478

Department Director Signature:



Date:

7/23/2021

Deputy County Administrator Signature:



Date:

7/26/2021

County Administrator Signature:



Date:

7/27/21



U.S. Department of Agriculture
Natural Resources Conservation Service

NRCS-ADS-093

NOTICE OF GRANT AND AGREEMENT AWARD

1. Award Identifying Number NR209457XXXXC001	2. Amendment Number 0001	3. Award /Project Period 08/20/2020 - 06/30/2023	4. Type of award instrument: Cooperative Agreement
5. Agency (Name and Address) Natural Resources Conservation Service 230 North First Avenue, Suite 509 Phoenix, AZ 85003		6. Recipient Organization (Name and Address) PIMA COUNTY 130 W CONGRESS ST FL 6 TUCSON AZ 85701-1317 DUNS: 074477969 EIN:	
7. NRCS Program Contact Name: MONTY LANE Phone: 520-724-7709 Email: monty.lane@usda.gov	8. NRCS Administrative Contact Name: KAYLIE ALDERMAN Email: kaylie.alderman@usda.gov	9. Recipient Program Contact Name: Scott Glener Phone: 520-724-7709 Email: scott.glener@pima.gov	10. Recipient Administrative Contact Name: Evan Canfield Phone: 520-724-4678 Email: evan.canfield@pima.gov
11. CFDA 10.904	12. Authority 33 U.S.C. 701b-1 16 U.S.C. 1001-1009 68 Stat. 666, as amended Public Law 83-566 Public Law 84-1018, 70 Stat. 1088 Public Law 86-468, 74 Stat. 131, 132 Public Law 85-865, 72 Stat. 1605 Public Law 86-545, 74 Stat. 254 Public Law 87-703, 76 Stat. 608 Public Law 90-361, 82 Stat. 250	13. Type of Action Amendment/Revision	14. Program Director Name: Scott Glener Phone: 520-724-7709 Email: scott.glener@pima.gov
15. Project Title/ Description: Pima County Brawley Wash Watershed Plan/EA			
16. Entity Type: B = County Government			
17. Select Funding Type			
Select funding type:	<input checked="" type="checkbox"/> Federal	<input type="checkbox"/> Non-Federal	
Original funds total	\$590,000.00	\$0.00	
Additional funds total	\$154494.48	\$0	

Grand total		\$744,494.48	\$0.00
18. Approved Budget			
Personnel	\$0.00	Fringe Benefits	\$0.00
Travel	\$0.00	Equipment	\$0.00
Supplies	\$0.00	Contractual	\$744,494.48
Construction	\$0.00	Other	\$0.00
Total Direct Cost	\$744,494.48	Total Indirect Cost	\$0.00
		Total Non-Federal Funds	\$0.00
		Total Federal Funds Awarded	\$744,494.48
		Total Approved Budget	\$744,494.48

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.

Name and Title of Authorized Government Representative Keisha L. Tatem State Conservationist	Signature	Date
Name and Title of Authorized Recipient Representative Sharon Bronson Chair Board of Directors Pima County Flood Control District	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).

ATTEST:

Clerk of the Board

Statement of Work

Please note that any narrative below should be considered in addition to the original Statement of Work, as well as any prior amendments.

Purpose

The purpose of this amendment is to extend the period of performance as shown in block 3 of the notice of award (NOA), increase the amount of funding as shown on NOA and the updated budget narrative section, and replace the General Terms and Conditions. The Responsibilities section has been updated to include information referenced in the revised General Terms and Conditions of the award.

Except as provided herein, all other terms and conditions of the original agreement and any previous amendments remain unchanged and in full force and effect.

Objectives

There are no changes to this section from the original statement of work.

Budget Narrative

The below Budget Narrative replaces the Budget Narrative in the original agreement.

The official budget (including cost category itemization as identified on the SF-424A) described in this Budget Narrative will be considered "the total budget as last approved by the Federal awarding agency" for this award.

This amendment will add \$154,494.48. The total cost for preparation of a Watershed Plan and Environmental Assessment (EA) for the proposed project is estimated at \$744,494.48. NRCS will fund 100% of the cost, not to exceed the amount of \$744,494.48.

Contractual

Pima County is the sponsoring local organization, and the contracting authority for this planning effort, and has awarded a contract to a qualified Contractor (Stantec). They have issued task orders for the purpose of developing a Watershed Plan/EA. The Contractor shall coordinate closely with Pima County and NRCS for preparation of the Plan/EA. The Plan/EA shall be prepared in accordance with the Watershed Protection and Flood Protection Act (Public Law 83-566), the National Environmental Policy Act (NEPA), the Principles and Requirements for Federal Investments in Water Resources (PR&G), the NRCS National Watershed Program Manual (NWPM) and National Watershed Program Handbook (NWPH), and all other applicable laws, regulations, and policies. All planning activities conducted by the contractor shall be in coordination with the Sponsor and NRCS.

Responsibility of the Parties

The sections are hereby revised and/or added to this section:

If inconsistencies arise between the language in this Statement of Work (SOW) and the General Terms and Conditions attached to the agreement, the language in this SOW takes precedence.

1. The Sponsor (including subRecipient) is responsible for compliance with the prohibition on certain telecommunications and video surveillance services or equipment identified in 2 CFR 200.216. See Public Law 115-232, Section 889 for additional information. In accordance with 2 CFR 200.216, the Sponsor (including subRecipient) is prohibited from obligating or expending loan or grant funds for covered telecommunications equipment or services to:

- a. procure or obtain, extend or renew a contract to procure or obtain;
- b. enter into a contract (or extend or renew a contract) to procure; or
- c. obtain the equipment, services or systems.

2. In accordance with 2 CFR 200.340, the Sponsor understands this agreement may be terminated in whole or in part as follows:

- a. By the Federal awarding agency or pass-through entity, if a Sponsor fails to comply with the terms and conditions of a Federal award;

- b. By the Federal awarding agency or pass-through entity, to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities;
- c. By the Federal awarding agency or pass-through entity with the consent of the Sponsor, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated; or
- d. By the Sponsor upon sending to the Federal awarding agency or pass-through entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal awarding agency or pass-through entity determines in the case of partial termination that the reduced or modified portion of the Federal award or subaward will not accomplish the purposes for which the Federal award was made, the Federal awarding agency or pass-through entity may terminate the Federal award in its entirety.

Expected Accomplishments and Deliverables

There are no changes to this section from the original Statement of Work

Resources Required

There are no changes to this section from the original Statement of Work

Milestone

This section is revised to reflect the updated Milestones

Pima County provided the following list of milestones already met for the project:

1. Assembled a sponsor planning team with membership from Pima County and the City of Tucson who are meeting monthly with NRCS staff.
2. Developed a Plan of Work that was mutually agreed upon by the sponsor, consultant and NRCS (January 25, 2021).
3. Developed a QAQC Plan (March 1, 2021).
4. Developed and implemented a Public Involvement Plan (April 16, 2021).
5. Conducted a stakeholder scoping meeting (March 16, 2021).
6. Conducted a public scoping meeting (March 30, 2021).
7. Collected public comments using a spatial comment collection tool (www.brawleywashplan.com).
8. Conducted two, day-long field visits with stakeholders, the consultants, ourselves and NRCS staff.
9. Assembled a database of spatial data and previous reports on the watershed.

Pima County also provided a revised timeline, see below:

The new end of the performance period will be 6/30/2023

GENERAL TERMS AND CONDITIONS

Please reference the below link(s) for the General Terms and Conditions pertaining to this award:

U.S. DEPARTMENT OF AGRICULTURE FARM PRODUCTION AND CONSERVATION

GENERAL TERMS AND CONDITIONS GRANTS AND COOPERATIVE AGREEMENTS

The Farm Production and Conservation (FPAC) mission area encompasses the following USDA agencies: Natural Resources Conservation Service (NRCS), Farm Service Agency (FSA), Risk Management Agency (RMA), the Commodity Credit Corporation (CCC), and the FPAC Business Center.

I. APPLICABLE REGULATIONS

a. As a condition of this award, the recipient assures and certifies that it has and/or will comply and require subrecipients to comply with the requirements contained in the following statutes and regulations, as applicable. The full text of Code of Federal Regulations references may be found at <https://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR> and <http://www.ecfr.gov/>.

(1) 2 CFR Part 25, "Universal Identifier and System of Award Management" (2) 2 CFR Part 170, "Reporting Subaward and Executive Compensation Information" (3) 2 CFR Part 175, "Award Term for Trafficking in Persons" (4) 2 CFR Part 180, "OMB Guidelines to Agencies On Governmentwide Debarment And Suspension (Nonprocurement)" (5) 2 CFR Part 182, "Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)" (6) 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" (7) 2 CFR Part 400, "Uniform Administrative Requirements, Cost Principles, And Audit Requirements for Federal Awards" (8) 2 CFR Part 417, "Nonprocurement Debarment and Suspension" (9) 2 CFR Part 418, "New Restrictions on Lobbying" (10) 2 CFR Part 421, "Requirements for Drug-Free Workplace (Financial Assistance)" (11) 2 CFR Part 422, "Research Institutions Conducting USDA-Funded Extramural Research; Research Misconduct"

b. 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 <https://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR> and <http://www.ecfr.gov/>.

(1) 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles And Audit Requirements For Federal Awards" (2) 48 CFR Part 31, "Contract Cost Principles and Procedures" c. For corporate recipients, by accepting this award the recipient acknowledges: (1) that it does not have a Federal tax delinquency, meaning that it is not subject to any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, and (2) that it has not been convicted of a felony criminal violation under any Federal law within 24 months preceding the award, unless a suspending and debarring official of the USDA has considered suspension or debarment of the recipient corporation based on these convictions and/or tax delinquencies and determined that suspension or debarment is not necessary to protect the interests of the Government. If the recipient fails to comply with these provisions, the agency will annul this agreement and may recover any funds the recipient has expended in violation of the above cited statutory provisions.

II. UNALLOWABLE COSTS

The following costs are not allowed:

a. Costs above the amount authorized for the project. b. Costs incurred after the award period of performance end date. c. Costs not identified in the approved budget or approved budget revisions. d. Profit resulting from Federal financial assistance. Recipients may not earn and keep income resulting from an award. e. Costs of promotional items and memorabilia, including models, gifts, and souvenirs. f. Compensation for injuries to persons or damage to property arising from project activities.

This list is not exhaustive. For general information about the allowability of particular items of costs, please see 2 CFR Part 200, "Subpart E - Cost Principles", or direct specific inquiries to the administrative contact identified in the award.

The allowability of some items of costs may be difficult to determine. To avoid disallowance or dispute of such costs, the recipient may seek prior approval before incurring them. See 2 CFR 200.407. III. PRIOR APPROVAL REQUIREMENTS

Certain items of cost and award revisions require the prior written approval of the awarding agency. The following are the most common situations requiring prior approval. However, this list is not exhaustive, and the recipient is also bound by any other prior approval requirements identified in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

a. Pre-award costs.—To receive reimbursement for costs incurred prior to the award date, recipients must request written approval before incurring the costs. This restriction also applies to costs intended to meet cost-share requirements. FPAC agencies will not approve expenses incurred more than 90 calendar days before the period of performance start date. All costs incurred before the period of performance start date, even if approved, are at the recipient's risk (i.e., the Federal awarding agency is under no obligation to reimburse such costs if for any reason the recipient does not receive a Federal award or if the Federal award is less than anticipated and inadequate to cover such costs). b. Revisions to scope, objective, or deliverables.—When it is necessary to modify the scope, objective, or deliverables of an award, the recipient authorized signatory must submit a written request and justification for the change along with the revised scope, objective, or deliverables of the award to the administrative contact. The request should contain the following information: 1. Grant or agreement number 2. Narrative explaining the requested modification to the project scope, objectives, or deliverables 3. A description of the revised scope, objectives, or deliverables

c. Additions or changes to subawards and contracts.—The subawarding, transferring, or contracting out of any work under a Federal award not identified in the original award budget or any changes to subaward or contracts requires prior written approval. The recipient must submit a justification for the proposed subaward/contract, a statement of work to be performed, and a detailed budget for the subaward/contract to the administrative contact. This provision does not apply to the acquisition of supplies, material, equipment, or general support services. d. Change in a key person specified in the application or award.—When there is a change in key personnel, the recipient must request prior written approval for the substitution or change. The request must identify the replacement personnel and provide his or her qualifications.

e. Absence or change in project leadership.—If the approved project director or principal investigator disengages from the project for more than three months or reduces time devoted to the project by 25 percent or more, the recipient must notify the administrative contact in writing, identifying who will be in charge during the project director's absence. The notification must include the qualifications of the replacement.

f. Budget revisions.—Recipients must request prior written approval for deviations from the approved budget in the instances described below. For all budget revisions, the recipient must submit a new SF 424A or 424C and budget narrative to support the request. 1. The inclusion of costs that require prior approval in accordance with Subpart E—Cost Principles of this part or 45 CFR part 75 Appendix IX, "Principles for Determining Costs Applicable to Research and Development under Awards and Contracts with Hospitals," or 48 CFR part 31, "Contract Cost Principles and Procedures," as applicable. 2. Where the cumulative amount of transfers of funds among direct cost categories or programs, functions, and activities exceeds or is expected to exceed 10 percent of the total budget as last approved by the Federal awarding agency, and where the Federal share of the project exceeds the simplified acquisition threshold. 3. The transfer of funds budgeted for participant support costs to other categories of expense requires prior written approval. Participant support costs means direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with conferences or training projects. 4. Changes in the approved cost-sharing or matching provided by the recipient. 5. Additional Federal funds needed to complete the project. 6. Changes to negotiated indirect cost rates during the award period of performance. 7. Equipment purchases not specifically identified in the approved budget.

g. No-Cost Extensions of Time.—When a no-cost extension of time is required, the recipient authorized signatory must submit a written request to the FPAC administrative contact. Except in very limited circumstances, a no-cost extension of time cannot exceed 12 months. FPAC cannot approve requests for no-cost extensions received after the expiration of the award. In addition, time may not allow extension requests submitted less than 30 calendar days before the period of performance end date to be processed, so recipients are encouraged to submit requests as soon as possible. FPAC agencies cannot approve no-cost extensions requested merely to expend remaining funds. The request must contain the following: 1. Amount of additional time requested 2. Explanation for the need for the extension 3. A summary of progress to date and revised milestones

IV. PAYMENTS

a. Recipients must request reimbursement or advances using a properly completed and executed SF-270, submitted with supporting documentation to either the ezFedGrants system or to the e-mail address specified in the statement of work. FPAC agencies will make payment to the recipient on a reimbursable or advance basis in accordance with the frequency specified in the statement of work.

b. 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. At the end of each advance period, the recipient must provide a justification (i.e., documentation) showing the amount of advanced funds spent.

c. 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 recipient makes advance payments to contractors, the recipient must ensure that the timing of such payments is designed to minimize elapsed time between the advance payment and the disbursement of funds. Recipients must not submit requests from their contractors for review or approval.

d. 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 subaward 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. The level of detail and documentation required to be provided to support any individual payment request is at the discretion of the Government.

e. Recipients must pay all costs incurred (i.e., liquidate obligations) under the award not later than 90 calendar days after the period of performance end date.

V. FINANCIAL REPORTING

a. Recipients must submit a Federal Financial Report (FFR), SF 425 in accordance with the schedule included in the award statement of work. Recipients must submit reports to either the ezFedGrants system or to the email address specified in the statement of work. Failure to submit reports as required may result in suspension or termination of award.

b. The recipient must submit a final financial report no later than 90 days after the period of performance end date. c. The FPAC awarding agency will withhold payments under this award if the recipient is delinquent in submitting required reports.

VI. PERFORMANCE MONITORING AND REPORTING

a. The recipient is responsible for monitoring day-to-day performance and for reporting to FPAC. If the project involves subaward/contractual 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. The recipient must submit a written progress report at the frequency specified in the statement of work to either the ezFedGrants system or to the email address specified in the statement of work. 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 costs.

c. The recipient must submit a final performance report within 90 calendar days of the period of performance end date. d. The FPAC awarding agency will withhold payments under this award if the recipient is delinquent in submitting required reports.

VII. AUDIT REQUIREMENTS

The recipient is responsible for complying with audit requirements in accordance with 2 CFR 200, Subpart F. A recipient entity that expends \$750,000 or more during the recipient's fiscal year in Federal awards must have a single or program-

specific audit conducted for that year.

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 FPAC agencies will participate in efforts under this agreement solely as representatives of the United States. 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, FPAC employees must report to their immediate supervisor any negotiations with the recipient concerning future employment and must refrain from participation in projects or agreements with such recipients.
- c. Employees of the recipient will not be considered Federal employees or agents of the United States for any purposes under this agreement. d. Except in very limited circumstances (e.g., construction agreements), no agreement period of performance can exceed a total of five years, including extensions. e. Recipients who engage or assist in scientific related activities on behalf of USDA must uphold the principles of scientific integrity established by Departmental Regulations 1074-001, Scientific Integrity. Covered activities include engaging in, supervising, managing, and reporting scientific work; analyzing and publicly communicating information resulting from scientific work; and utilizing information derived from scientific work in policy and decision making. f. Recipients of awards under covered programs (as defined in Executive Order 13858, January 31, 2019) are hereby notified that they are encouraged to use, to the greatest extent practicable, iron and aluminum as well as steel, cement, and other manufactured products produced in the United States in every contract, subcontract, purchase order, or subaward that is chargeable under the award. "Covered program" means a program that provides financial assistance for the alteration, construction, conversion, demolition, extension, improvement, maintenance, construction, rehabilitation, or repair of an infrastructure project in the United States. However, it does not include programs for which a domestic preference is inconsistent with law or programs providing financial assistance that are subject to comparable domestic preferences. g. The recipient and its employees are prohibited from promoting, recommending, or discussing the availability of specific commercial products or services with FPAC agency clients in the course of carrying out activities under this agreement, including any products or services offered by the recipient, except as may be specifically allowed in the 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 2 CFR Part 200.315. 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:

Farm Production and Conservation Business Center Grants and Acquisitions Division 1400 Independence Avenue, SW.
Room 6819 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 USDA 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 U.S. Department of Agriculture, under agreement 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. In addition, any reference to specific brands or types of products or services does not constitute or imply an endorsement by the U.S. Department of Agriculture for those products or services."

e. All publications printed with Federal Government funds will include the most current USDA nondiscrimination statement, available from the Public Affairs Division, Civil Rights Division, or on the USDA home page. If the material is too small to permit the full nondiscrimination statement to be included, the material must, at a minimum, include the statement:

“USDA is an equal opportunity provider and employer.”

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

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 authorizing statute. b. Cost share must be documented on each SF 425 and SF 270 and in source documentation as it is provided by the recipient or third party. The required cost-share or matching ratio must be met by the end of the agreement period of performance; however, it does not have to be maintained for every payment request.

c. 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 FPAC 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. If the recipient's plans are not acceptable to FPAC, the award may be subject to termination. FPAC modifications to proposed cost sharing revisions are made on a case-by-case basis. Failure by the recipient to notify FPAC in accordance with this section may result in the disallowance of some or all the costs charged to the award, the subsequent recovery by FPAC of some of the FPAC funds provided under the award, and possible termination of the award. It may constitute a violation of the terms and conditions of the award so serious as to provide grounds for subsequent suspension or debarment.

d. The recipient must maintain records of all project costs that are claimed by the recipient as cost sharing as well as records of costs to be paid by FPAC. 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.

e. Recipients must provide notification to the agency administrative contact when adding or replacing sources of cost-share contributions.

XI. PROGRAM INCOME

Program income is the gross revenue generated by a Federally funded activity earned during the performance period of the award. Program income may be earned by recipients from fees charged for conference or workshop attendance, from rental fees earned from real property or equipment acquired with Federal funds, or from the sale of commodities or items developed under the grant or cooperative agreement. It must fall within the guidelines at 2 CFR 200.307. Unless identified and addressed in the award, the recipient must provide notification to the administrative contact and request the manner it would like to treat the income (i.e., deductive or additive). Program income may be used to meet recipient cost-share requirements with the approval of the Government. All program income must be reported on the applicable SF 270 and SF 425.

XII. NONEXPENDABLE EQUIPMENT

Recipients purchasing equipment or products with funds provided under this award are encouraged 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 FPAC 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 FPAC. However, if the per-unit fair market value is \$5,000 or more, the recipient must submit a written request to the FPAC administrative contact for disposition instructions.

XIII. LIMIT OF FEDERAL LIABILITY

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

XIV. MODIFICATIONS AND TERMINATIONS

The parties may amend this award through an exchange of correspondence between the authorized signatory of each or via formal amendment document. The award is subject to termination if FPAC determines that the recipient has failed to comply with the terms and conditions of the award. If the award is terminated, the guidelines at 2 CFR 200.339-42 will govern the obligations of the parties.

XV. PRIVACY ACT AND PROHIBITION AGAINST CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS

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 FPAC.

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).

c. The recipient agrees to comply with the “Prohibition Against Certain Internal Confidentiality Agreements.”

1. You may not require your employees, contractors, or subrecipients seeking to report fraud, waste, or abuse to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting them from lawfully reporting that waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information. 2. You must notify your employees, contractors, or subrecipients that the prohibitions and restrictions of any internal confidentiality agreements inconsistent with paragraph (1) of this award provision are no longer in effect. 3. The prohibition in paragraph (1) of this award provision does not contravene requirements applicable to any other form issued by a Federal department or agency governing the nondisclosure of classified information. 4. If FPAC determines that you are not in compliance with this award provision, FPAC: i. Will prohibit your use of funds under this award, in accordance with sections 743 and 744 of Division E of the Consolidated Appropriations Act, 2016, (Pub. L. 114-113) or any successor provision of law; ii. May pursue other remedies available for your material failure to comply with award terms and conditions. XVI. ACKNOWLEDGMENT OF SECTION 1619 COMPLIANCE

The recipient agrees to comply with FPAC 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. 8791 as described below.

a. Responsibilities. 1. Acceptance of this award indicates acknowledgment and understanding that the recipient is legally bound by Federal statute to comply with the provisions of Section 1619 and that the recipient will not subsequently disclose information protected by section 1619 to any individual or organization that is not directly covered by this award. Any such subsequent disclosure of the protected information (except as permitted under Section 1619) will be considered a violation of Section 1619. The recipient will be held responsible should disclosure of the protected information occur.

2. Acceptance of this award legally binds every owner, manager, supervisor, employee, contractor, agent, and representative of the recipient to comply with the provisions in Section 1619. The recipient must consult with FPAC prior to providing protected information to an entity or individual outside of the recipient and as necessary to implement the program to ensure that such release is permissible.

3. The recipient will use the protected information only to perform work that is directly connected to this award. Use of the protected information to perform work that is not directly connected to this award is expressly prohibited.

4. The recipient must internally restrict access to the protected information to only those individuals who have a demonstrated need to know the protected information to perform work under this award.

5. The provisions in Section 1619 are continuing obligations. Even when the recipient is no longer a recipient, or when individuals currently affiliated with the recipient become no longer so affiliated, every person having been provided access to the protected information will continue to be legally bound to comply with these provisions.

6. The recipient must notify all managers, supervisors, employees, contractors, agents, and representatives about this provision and the requirements of Section 1619. Notifications about the existence of this provision must be made to those individuals who are new to the organization and periodic notifications must be sent throughout the organization (as well as to all contractors and agents) to remind all about the ongoing and continuing requirements.

7. When the recipient is unsure whether particular information is covered or protected by Section 1619, the recipient must consult with FPAC to determine whether the information must be withheld.

8. Use of the protected information for any purpose is expressly prohibited after the period of performance end date of this award. Upon the award end date, any protected information provided under this award must be immediately destroyed or returned to FPAC. The recipient must provide to FPAC written certification that the protected information (paper copy, electronic copy, or both) has been properly destroyed, removed from any electronic storage media, or both.

9. Any State's "sunshine law," "open records act" or other version of the Freedom of Information Act is superseded by section 1619 under the Supremacy Clause of the U.S. Constitution. Accordingly, information protected from disclosure by section 1619 must not be released under such State laws.

b. Protected Information.

1. Examples of the types of information prohibited by disclosure under Section 1619 include, but are not limited to, the following:

i. State identification and county number (where reported and where located). ii. Producer or landowner name, business full address, phone number, Social Security Number, and similar personal identifying information. iii. Farm, tract, field, and contract numbers. iv. Production shares and share of acres for each Farm Serial Number (FSN) field. v. Acreage information, including crop codes. vi. All attributes for Common Land Units (CLUs) in USDA's Geospatial Information System. vii. Any photographic, map, or geospatial data that, when combined with other maps, can be used to identify a landowner. viii. Location of conservation practices.

2. Section 1619 allows disclosure of "payment information (including payment information and the names and addresses of recipients of payments) under any Department program that is otherwise authorized by law" (emphasis added). The names and payment information of producers generally may be provided to the public; however, the recipient shall consult with FPAC if there is any uncertainty as to the provision of such information.

3. Section 1619 also allows disclosure of otherwise protected information if "the information has been transformed into a statistical or aggregate form without naming any—(i) individual owner, operator, or producer; or (ii) specific data gathering cite." The recipient must consult with FPAC as to whether specific information falls within this exception prior to relying on this exception.

c. Violations. The recipient will be held responsible for violations of this provision and Section 1619. A violation of this provision by the recipient may result in action by FPAC, including termination of the underlying Federal award.

d. Effective Period. The requirements of this provision is effective on the date of the final signature and will continue until FPAC notifies the recipient that it is no longer required based on changes in applicable Federal law.

XVII. AWARD CLOSEOUT

a. Award closeout is the process by which FPAC determines that all required project activities have been performed satisfactorily and all necessary administrative actions have been completed. b. The recipient must submit, no later than 90 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the agreement, including documentation showing that match or cost-share requirements have been met. The awarding agency may approve extensions when requested by the recipient. c. Unless the awarding agency authorizes an extension, the recipient must liquidate all obligations incurred under the agreement not later than 90 calendar days after the end date of the period of performance. d. Recipients must submit all requests for reimbursements no later than 90 calendar days after the end date of the period of performance. e. The recipient must promptly refund any balances of unobligated cash that the awarding agency paid in advance or paid and that are not authorized to be retained by the recipient for use in other projects. See OMB Circular A-129 and see §200.345 Collection of amounts due, for requirements regarding unreturned amounts that become delinquent debts. f. Recipients must retain all records pertaining to the agreement in accordance with 2 CFR 200.333-337 and any additional requirements included in the agreement statement of work. g. Recipients must follow disposition requirements for property acquired with award funds in accordance with 2 CFR 200.310-316.