

OMB No. 0581-0240



***Farm Labor Stabilization and
Protection Pilot Grant Program
General Terms and Conditions***

Effective Date: September 2023

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1.0 OVERVIEW OF GENERAL TERMS AND CONDITIONS

The U.S. Department of Agriculture (USDA) Farm Labor Stabilization and Protection (FLSP) Pilot Grant Program general terms and conditions apply only to the FLSP Program and provide grant awardee requirements. The USDA Farm Service Agency (FSA) will provide the FLSP Program funding; however, USDA Agricultural Marketing Service (AMS) will administer the program. These general terms and conditions will refer to FSA and AMS jointly as USDA.

The general terms and conditions are determined by statutory, regulatory, and agency requirements, as well as by administrative policies. By accepting a grant agreement, awardees accept responsibility for all applicable terms and conditions. Failure to comply may result in actions described in section [17.0 Remedies for Noncompliance](#).

All agreements will be administered through the GrantSolutions (GS) online grants and agreements management system and the Payment Management System (PMS). FLSP grant awardees will receive a username and password from Grants Solution to access grant-related documents.

The Notice of Award references these terms and conditions and provides a link to the [FLSP website](#) that contains all related documents to manage the award.

Throughout the FLSP general terms and conditions, the word “must” is used it indicates a requirement. The use of the word “should” or “may” indicates a best practice or recommended approach rather than a requirement and permits discretion.

1.1 Common Terms and Acronyms

Term/Acronym	Meaning
ACH	Automated Clearing House
AOR	Authorized Organization Representative/Official
CFDA	Catalog of Federal Domestic Assistance
CFR	Code of Federal Regulations
EFT	Electronic Fund Transfer
GS	GrantSolutions
FAIN	Federal Award Identification Number; also known as the Grant Agreement Number
FAPIS	Federal Awardee Performance and Integrity Information System
GAAP	Generally Accepted Accounting Principles
GAGAS	Generally Accepted Government Auditing Standards
GSA	General Services Administration
NFE	Non-Federal Entity
OMB	Office of Management and Budget
PMS	Payment Management System of the Department of Health and Human Services
Protected PII	Protected Personally Identifiable Information
SAM	System for Award Management (SAM.gov)
SF	Standard Form
UEI	Unique Entity Identifier; formerly known as DUNS

1.2 Order of Precedence

If there is an inconsistency between award provisions, USDA will resolve the issue by giving precedence in the following order:

1. Applicable laws and statutes of the United States, including any specific legislative provisions mandated in the statutory authority for the award
2. Code of Federal Regulations
3. FLSP General Terms and Conditions for Grants Agreements
4. Agency policy
5. Application documents

1.3 Definitions

Grant term definitions align to the maximum extent possible with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR § 200.1). Definitions referenced in this document are highlighted below:

- *Budget period* means the time interval from the start date of a funded portion of an award to the end date of that funded portion during which awardees are authorized to expend the funds awarded, including any funds carried forward or other revisions pursuant to [2 CFR § 200.308](#).
- *Federal award* means the Federal financial assistance that a awardee receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in [2 CFR § 200.101](#). The instrument setting forth the terms and conditions. The instrument is the grant agreement, cooperative agreement, other agreement for assistance or the cost -reimbursement contracted awarded under the Federal Acquisition Regulations.
- *Non-Federal entity (NFE)* means a state, local government, Indian tribe, Institution of Higher Education (IHE), or nonprofit organization that carries out the award as an awardee or subawardee. These award terms and conditions apply to non-Federal entities.
- *Grant Performance Period (or Period of Performance)* means the total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions or budget periods. Identification of the period of performance in the Federal award per [2 CFR § 200.211\(b\)\(5\)](#) does not commit the awarding agency to fund the award beyond the currently approved budget period. In addition, the term includes any extension of the end date of the award, such as a no-cost extension authorized by [2 CFR § 200.308](#), paragraph (d)(2). The grant performance period is identified in block 26 of the Notice of Award and will determine the effective commence date of the award.
- *Personally Identifiable Information (PII)* means information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual. Non-PII can become PII whenever additional information is made publicly available, in any medium and from any source, that, when combined with other available information, could be used to identify an individual.
- *Awardee* means an entity, usually but not limited to non-Federal entities, that receives a Federal award directly from a Federal awarding agency. The term awardee does not include subawardees or individuals that are beneficiaries of the award.

- *Subaward* means an award provided by a pass-through entity to a subawardee for the subawardee to carry out part of a Federal award received by the pass-through entity. It does not include payments to contractors or to individuals who are beneficiaries of a Federal program. A subaward may be provided through any form of legal agreement, including a contract.
- *Subawardee* means an entity, usually but not limited to non-Federal entities, that receives a subaward from a pass-through entity to carry out part of a federal award; but does not include an individual that is a beneficiary of such award. A subawardee may also be an awardee of other Federal awards directly from a federal awarding agency.

2.0 FINANCIAL MANAGEMENT

Awardees are required to meet the standards and requirements for financial management systems set forth or referenced in [2 CFR § 200.302](#).

The adequacy of an awardee's financial management system is integral to their ability to account for grant expenditures and track matching resources (if applicable). The awardee must use Federal funds in a responsible manner and apply adequate internal controls and cash management practices consistent with the requirements outlined in [2 CFR § 200.303](#).

Awardees must expend and account for funds under an award in accordance with their own State laws and procedures. Financial management systems and related records, of the grant awardee, and of any other entity involved in the grant, must be sufficiently detailed to prepare reports, trace funds, and demonstrate that fund management complies with Federal statutes, regulations, and these general and other program-specific terms and conditions.

An awardee's financial management system must include:

- 1) Identification, in its accounts, of all Federal awards received and expended and the Federal programs under which they were received. This identification must include, as applicable:
 - a. The Assistance Listing (formerly known as CFDA) title and number;
 - b. The Grant Agreement Number/(FAIN) and Federal fiscal year awarded;
 - c. The name of the Federal Agency; and
 - d. The name of the pass-through entity, if applicable.
- 2) Accurate, current, and complete disclosure of the financial accounting of each Federal award or program.
- 3) Records that adequately identify the source and application of funds for Federally funded activities. These records must contain information pertaining to Federal awards, authorizations, financial obligations, unobligated balances, assets, expenditures, income, and interest. Accounting records must be supported by source documentation such as canceled checks, paid bills, payrolls, time and attendance records, contracts, and subaward documents. Refer to [2 CFR 200.334](#).
- 4) Effective control over, and accountability for, all funds, property, and other assets. Awardees must adequately safeguard all assets and assure that they are used solely for authorized purposes.
- 5) Written procedures to implement the [2 CFR § 200.305](#) requirements, which minimize the time elapsing between the transfer of Federal funds to any NFE and the disbursement of the funds for direct program costs and the proportionate share of any allowable facilities and administrative costs.

- 6) Procedures for determining the allowability of costs in accordance with the terms and conditions of this award.

An awardee must notify the USDA representative immediately when they discover financial management problems. Deficiencies in the awardee's financial management system, whether reported by the awardee or identified by USDA, may result in USDA imposing special award conditions, such as a high-risk designation or other requirements for increased monitoring.

2.1 Audit Requirements

Awardees are responsible for obtaining audits in accordance with the [2 CFR § 200 Subpart F](#). These standards require any NFE that expends \$750,000 or more in Federal awards during its fiscal year to have a single or program-specific audit conducted for that year.

In addition to 2 CFR 200 Subpart F, the audit must be performed in accordance with the standards specified in [GAGAS](#). Awardees must follow a systematic method to ensure timely and appropriate resolution of audit findings and recommendations, whether discovered because of a Federal audit or an audit initiated by the pass-through entity.

Awardees that expend \$750,000 or more must submit the single audit or program-specific audit, along with required Form SF-SAC, to the Federal Audit Clearinghouse in accordance with the submission requirements in 2 CFR 200, subpart F. Such audits must be submitted within 30 calendar days after receipt of the auditor's report, or nine months after the end of the audit period. The Form SF-SAC and reporting package MUST be submitted electronically to FAC at <https://facweb.census.gov/>. Any future updates to the location of the FAC may be found at the OMB website.

3.0 SUBAWARDEE MONITORING & MANAGEMENT

Awardees are accountable for the performance of subawarded projects and the appropriate expenditure of Federal funds. This includes maintaining the necessary documentation on all subawards and making it available to USDA upon request. Awardees must include subaward activities in all performance and financial reports. In general, the requirements that apply to the award awardee flow down to subawardees.

If the awardee uses subawards, it must enter into a formal written agreement with each subawardee that addresses the arrangements for meeting the programmatic, administrative, financial, and reporting requirements of the grant, including those necessary to ensure compliance with all applicable Federal regulations and policies.

Awardees must evaluate each subawardee's risk and establish monitoring activities as necessary to ensure each subawardee complies with Federal statutes, regulations, and the terms and conditions of the subaward.

Monitoring activities must include but are not limited to:

- Review of performance and financial reports;
- Reviews of subawardee program operations, including onsite as appropriate; and
- Providing training and technical assistance on programmatic activities.

Specifically, the awardee is responsible for including the requirements of the applicable FLSP General Terms and Conditions in its subaward agreements as well as the provisions required under [2 CFR § 200.332](#). If requested by USDA, awardees must provide evidence of a risk assessment plan.

If a subawardee fails to comply with the terms and conditions of this award, the awardee may impose special award conditions, including one or more of the corrective actions outlined in [2 CFR § 200.339](#).

Please see [Appendix A to 2 CFR § 170](#) for additional reporting requirements concerning subawards.

4.0 PAYMENTS

4.1 Schedule of FLSP Payments

FLSP payments are made in accordance with achieving key milestones of participation in the FLSP program. Each payment period is roughly associated with estimated minimum costs of participation in FLSP, including the cost of time and risk management for applicant and their operation, and any subawardee(s) and partners. For all awardees, funds will be released according to three distinct payment periods:

	Payment period, amount	Milestones	Reporting and/or Confirmation requirement(s)
1	50% of award total	Successful H-2A application and recruitment. Launch of worker contracts and completion of KYRR training.	<ul style="list-style-type: none"> • Copy of awardee’s accepted Job Order (Form 790-A) from their respective State Workforce Agency • Copy of submitted I-129 form • Confirmation of completed Know Your Rights and Resources (KYRR) training • Confirmation of recruitment
2	25% of award total	Completion of FLSP commitments in the first project “growing” season, including research participation.	Awardee’s FLSP Interim Report
3	25% of award total	Successful project completion, including second year of research participation.	Awardee’s FLSP Final Report

4.2 How to Request Payments

USDA grant awardees are required to request payments electronically through the PMS system. Awardees not already enrolled must register in the system to request payments. Instructions for requesting a payment can be found in the Payment Management System. Awardees must attach the [SF-270](#) form in PMS when submitting a payment request. USDA will use its discretion in reviewing and approving payments; approval is not guaranteed.

USDA will confirm receipt of the payment request, review the request, and communicate with the appropriate awardee representatives. Upon approval, payments will be made via EFT to the bank account specified by the awardee in [SAM.gov](#). If the bank information is incorrect or changes at any time during the grant period, it is the awardee’s responsibility to update their SAM.gov information and notify USDA to ensure proper and timely deposit of funds.

4.3 Payment Source Documentation and Other Requirements

Awardees must collect and maintain source documentation associated with costs incurred as a result of the Federal award and make it available to USDA upon request. Source documentation includes, but is not limited to, receipts,

canceled checks, paid bills, payrolls, time and attendance records, contracts, invoices, and subaward documents. If awardees pay a portion of the total amount indicated on the source document, it must appropriately identify the specific expenses and total amount charged to the grant.

5.0 PROCUREMENTS

Awardees may acquire commercially available goods and services in connection with their FLSP activities. In doing so, the awardee must have in place and use documented procurement procedures, consistent with applicable State, local and tribal laws and regulations. Awardees' documented procurement procedures must conform to the [procurement standards](#) identified in [2 CFR § 200.317](#) through [2 CFR § 200.327](#). To the greatest extent possible, the awardee should provide a preference for acquisition of goods, products and services produced in the United States, per [2 CFR § 200.322](#).

The requirements of the Federal award also apply to any subcontract. The awardee is responsible for ensuring that all of its contracts made in connection with their FLSP activities contain the applicable provisions described in [Appendix II of 2 CFR § 200](#).

6.0 ALLOWABLE COST AND ACTIVITIES

6.1 Allowable and Unallowable Costs and Activities

The following information offers an illustrative list of broad categories of expenses that USDA deems allowable and those that are unallowable under the FLSP grant program. This list is not all inclusive, and grant applicants and recipients who wish to spend their grant funds on expenses not included in the allowable list below should consult the Federal Cost Principles ([Subpart E-Cost Principles of 2 CFR § 200](#)) for a complete explanation of the allowability of costs. They may also contact an FLSP grant specialist (flsp@usda.ams.gov) for formal confirmation and prior approval.

Unallowable Costs

- Purchase of property, equipment, and supplies ([2 CFR § 200.310-316](#)).
- Funding of any activities associated with anti-union activities/organizing.
- Costs resulting from violations of, alleged violations of, or failure to comply with, Federal, State, tribal, local, or foreign laws and regulations ([2 CFR 200.441](#)).
- Development or participation in political activities, in violation of the provisions of the Hatch Act ([5 U.S.C. §§ 1501-1508](#) and [§§ 7324-7326](#)).
- Any costs incurred prior to the performance start date of the Federal award ([2 CFR § 200.458](#)).
- Costs resulting from violations of, alleged violations of, or failure to comply with, Federal, State, tribal, local, or foreign laws and regulations ([2 CFR § 200.441](#)).

Allowable Costs:

- Costs related to the hiring and onboarding of U.S. and H-2A workers including, for example but not limited to recruitment, applications, attorneys, and other consulting fees, etc.
- Costs related to the operations related to labor costs, such as but not limited to wages, business and administrative costs related to compliance with the program commitments, etc.
- Housing maintenance plan costs
 - *Allowable* for rental costs of land and building space. However, lease agreements to own (i.e., lease-to-own or rent-to-own) are not allowable. The lease or rental agreement must terminate at the end of the grant FLSP period of performance.
 - Rearrangement and reconversion costs are *allowable*, including those incurred in restoring or rehabilitating the awardee's facilities to approximately the same condition existing before the start of the grant agreement, less costs related to normal wear and tear ([2 CFR § 200.462](#)).

- Any alterations to housing, or reconversion must ensure compliance with the National Environmental Policy Act (NEPA) - [7 CFR § 1\(b\)](#).
- Contractor/consultant employee costs/rates that do not exceed the salary of a GS-15 step 10 Federal employee in the area (for more information, visit the [OPM](#) website) and travel that is reasonable and necessary. This does not include fringe benefits, indirect costs, or other expenses. If rates exceed this amount, the awardee is required to justify the allowability of the cost aligning with [2 CFR §§ 200.317-327](#).

7.0 CHANGES REQUIRING PRIOR WRITTEN APPROVAL

The awardee may need to make modifications, such as budget, personnel, or contracts, to accomplish the objectives during the period of performance. Awardees are required to request prior written approval for the following items from USDA in advance of a change or obligation of funds. Requests for prior written approval must be submitted by the AOR, if applicable. Every request for a prior written approval must include the following information:

1. Grant agreement number;
2. Project title;
3. Name of the awardee organization; and
4. Project point of contact name.

USDA will confirm receipt, review the request, and communicate with the AOR. The AOR may revise the prior approval request to address any questions or concerns, but once accepted, USDA will notify the AOR.

7.1 Change in Key Personnel/Time Devoted to the Project

Awardees must alert USDA of changes in personnel, including new hires, or if key personnel disengage from activities of the grant agreement. Key personnel include the AOR listed in the Notice of Award as well as all other project personnel listed on the application. The request must include:

1. The name and contact information of the new individual(s) being hired, and whether they are replacing an individual identified on the application form.
2. The title, role and or capacity in which the new individual will serve;
3. The effective date.

7.2 Change in Scope or Objectives

A change in FLSP application and activity scope or objectives may affect the project narrative, outcome measures, award funding level, or timeline. If it does, prior approval is required. Such updates may result from changes in total agricultural workers hired during the grant performance period. If these updates are necessary, they are at USDA's discretion; USDA reserves the right to reject proposed changes.

As part of the prior approval request, the awardee must include:

1. A description of the change;
2. A revised narrative for the relevant portion of the approved project; and
3. The proposed dates of implementation (MM/YYYY – MM/YYYY).

A change in scope or objectives may affect the project narrative, outcome measures, award funding level, or timeline. If it does, the awardee must make revisions and include this in their request by following the applicable guidance in this section.

7.3 One-Time Extension

If the grant activities cannot be completed within the grant agreement's period of performance, the awardee must request written approval to extend the grant agreement's end date (no-cost extension of time) prior to the grant's expiration. The awardee may request a one-time extension of the period of performance of up to 12 months from the end date of the period of performance (block 26 of the Notice of Award) unless specific program requirements prohibit the extension beyond the maximum allowed period of performance. The request must be submitted no later than 10 days prior to the ending date of the grant agreement. The request must include:

1. The length of additional time requested, and the new ending date requested;
2. A justification for the extension;
3. A summary of progress to date in terms of the project timeline and objectives. The summary may reference the most recent Performance Report and indicate how circumstances have changed.

Unused or unobligated funds at the end of the award are not in themselves justification to receive a no-cost time extension. USDA will provide case-by-case extension approval, based on the written justification provided. If an extension is approved, the period of performance will be amended to end at the completion of the extension.

7.4 Contracting or Subawarding for Activities Central to the Award's Purpose(s)

Awardees must alert USDA in writing to any change that involve subawarding, transferring, or contracting out of any work under a Federal award or executing a fixed amount subaward. This provision does not apply to the acquisition of supplies, materials, equipment, or general support services. The notice to USDA must include:

1. A brief description of and justification for the change;
2. Contact information, including the work site address of the new partner;
3. A signed partnership letter, indicating the nature of their participation in the project.

7.5 Changes to Awardee Name or Address

If the awardee is contemplating changing the name or address of the awardee organization, the awardee is advised to contact its USDA representative for additional information on how this action may affect the award. This refers to a change to the awardee organization in block 1, "Awardee Name" on the fully executed Notice of Award. The UEI number would remain the same, while only the organization name or address would change. The request must include the new name or address of the awardee organization and the effective date of the change.

NOTE: A request to have a new awardee organization (that has a new UEI number) assume responsibility for the project is not allowable.

Awardees are responsible for properly updating their registration within both UEI and SAM.gov. The awardee must inform AMS of any pending changes in its legal status, divestiture, or bankruptcy.

8.0 PERFORMANCE AND FINANCIAL REPORTS

AMS requires submission of interim and final reports to demonstrate the progress made toward the completion of the Awardee's FLSP commitments and outcomes, as well as the grant agreement's overall financial status. Performance reports must be formatted and submitted using the approved templates or guidance, and machine-readable.

Awardees are required to submit an SF-425 [Federal Financial Report](#) with each performance report to account for their financial expenditures during that reporting period.

All performance reports must be submitted through GS and financial reports must be submitted through PMS. The required Interim Performance Report Template, Final Performance Report Template, and the SF-425 Federal Financial Report, along with [instructions](#) and a [sample financial report](#), can be found at www.ams.usda.gov/flsp. Click on “How to Administer the Award” in the left menu bar.

If a grant agreement must be extended beyond the performance period stated on the Notice of Award additional reports may be necessary depending on the length of the extension.

If performance or financial reports are prepared by a third party and/or subawardee, it is the awardee AOR’s responsibility to review and approve the report before forwarding it to USDA.

8.1 Interim Performance and Financial Reports

The Interim Performance Report and SF-425 Federal Financial Report covers the first season (roughly 9-12 months) of the project. Both are due **within 30 days of the performance period’s 12-month mark** (block 26 of the Notice of Award). In other words, if the award begins December 1, 2023, the interim report is due December 30, 2024 (i.e. 12 months plus 30 days). Awardees that must delay the start of their grant activities will indicate the delay at the time of the interim report deadline and will submit their detailed interim following their initial round of worker recruitment and submission of their certified H-2A Job Order.

8.2 Final Performance and Financial Reports

The Final Performance Report and SF-425 Federal Financial Report must be submitted **not later than the final date of the performance period** (block 26 of the Notice of Award). Awardees should take steps to receive all information from their subawardees, if applicable to ensure information is included in the final report.

8.3 Review of Performance and Financial Reports

USDA will confirm receipt of interim and financial performance reports and review them to ensure completeness and progress toward meeting grant award goals and measurable outcomes, as well as compliance with Federal assistance regulations. USDA will notify the AOR if additional information is required. The AOR is responsible for adequately addressing all comments and questions prior to sending the revised report(s).

8.4 Public Access to Records

Accomplishments, procedures, and other benefits resulting from the Federally funded project may be made available publicly through online posting, as well as through [Freedom of Information Act \(5 U.S.C. 552\) \(FOIA\)](#) requests. The [FLSP website](#) is the primary means to distribute results of each Federal award, although additional proposal/project information, within the regulations, will be released if requested under the FOIA. Restrictions on release of records and information apply for protected PII or when exempt from disclosure pursuant to the FOIA or the Privacy Act of 1974 ([5 U.S.C. § 552a](#)).

Since requested information may be made public, USDA encourages the awardee to minimize grammatical and spelling errors in submitted forms and materials. USDA will not edit the reports beyond ensuring that the content is appropriate.

8.5 Disparaging Language and Protected PII

Awardees are prohibited from using USDA grant funds to conduct any activity that is false, misleading, or disparaging toward agricultural commodities or products or to disparage the mission, goals, and/or actions of another organization or individual.

Reports submitted to USDA must avoid the use of Protected PII, including use of an individual's first name or first initial and last name in combination with any one or more types of information, including, but not limited to, social security number, passport number, credit card numbers, clearances, bank numbers, biometrics, date, and place of birth, mother's maiden name, criminal, medical and financial records, educational transcripts, etc. Personal contact information included in performance reports should be limited to the AOR's name and e-mail address, as well as organization name, physical address, and telephone number.

8.6 Overdue Reports

Events may occur that prevent you from submitting reports within the scheduled performance reporting dates. In such cases, the awardee must inform USDA as soon as it is aware of problems, delays, or adverse conditions, preferably no less than 14 calendar days before the due date. This disclosure must include a statement of the action taken or contemplated, and any assistance needed to resolve the situation. If a justified request is submitted by the awardee, USDA may extend the due date for any performance report. If the late report submissions are due to issues of noncompliance, the enforcement actions described in section [17.0 Remedies for Noncompliance](#) may be taken.

9.0 ACKNOWLEDGEMENT OF SUPPORT

As required in [2 CFR § 415.2](#), grant awardees and subawardees must acknowledge USDA support in all publications written or published with FLSP Program or cooperative agreement support. This includes reports, pamphlets, posters, and brochures, and, if feasible, any publication reporting the results of, or describing, a grant-supported activity. Awardees must also acknowledge USDA FLSP Program support on any audio or video product including live or prerecorded radio or television programs, audio recordings and multimedia presentations.

The following acknowledgment of USDA funding must appear in all published materials or products, in any format (websites, audiovisuals, etc.), that are substantially based upon or developed under an AMS award:

Funding for [Project or Publication] was made possible by a grant from the U.S. Department of Agriculture (USDA). Its contents are solely the responsibility of the authors and do not necessarily represent the official views of the USDA.

When using the USDA logo, please use the instructions provided within [USDA's style guide](#). Any other logo use requires approval in writing from USDA prior to finalizing documents for publication or printing.

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

FLSP grant awardees are asked to coordinate all public announcements of awards and subawards, when possible, with USDA Public Affairs staff (contact the assigned grants managements staff for more information). Simultaneous announcements by USDA and the grant awardee are frequently preferred.

10.0 ADMINISTRATIVE AND NATIONAL POLICY REQUIREMENTS

You agree to comply with the following Federal statutes and regulations as applicable to your award. These include but are not limited to the ones listed below. The full text of Code Federal Regulations references can be found at: [eCFR-Code of Federal Regulations](#).

Federal statutes and regulations found on the SF-424B “Assurances –Non-Construction Programs.”

[2 CFR § 25](#) – System for Award Management and Universal Identifier Requirements

[2 CFR § 170](#) – Reporting Subaward and Executive Compensation Information

[2 CFR § 175.15](#) – Award Term for Trafficking in Person:

I. Trafficking in persons.

a. PROVISIONS APPLICABLE TO A RECIPIENT THAT IS A PRIVATE ENTITY.

1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—

- i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;*
- ii. Procure a commercial sex act during the period of time that the award is in effect; or*
- iii. Use forced labor in the performance of the award or subawards under the award.*

2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —

- i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or*
- ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—*
 - A. Associated with performance under this award; or*
 - B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in [2 CFR part 180](#), “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at [2 CFR part 417](#).”*

b. PROVISION APPLICABLE TO A RECIPIENT OTHER THAN A PRIVATE ENTITY. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—

1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or

2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—

- i. Associated with performance under this award; or*
- ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in [2 CFR part 180](#), “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at [AGENCY MUST INSERT REFERENCE HERE TO ITS REGULATORY IMPLEMENTATION OF THE OMB GUIDELINES IN [2 CFR part 180](#) (E.G., “2 CFR PART 417”)].*

c. PROVISIONS APPLICABLE TO ANY RECIPIENT.

1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.

2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:

- i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended ([22 U.S.C. 7104\(g\)](#)), and
- ii. Is in addition to all other remedies for noncompliance that are available to us under this award.

[2 CFR §§ 180](#) and [417](#) – OMB Guidelines to Agencies on Government-Wide Debarment and Suspension (Nonprocurement) and USDA Nonprocurement Debarment and Suspension

[2 CFR § 182](#) – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)

[2 CFR § 183](#) – Never Contract with the Enemy

[2 CFR § 200](#) – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

[2 CFR § 400](#) – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

[2 CFR § 415](#) – General Program Administrative Regulations

[2 CFR § 416](#) – General Program Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

[2 CFR § 418](#) – New Restrictions on Lobbying

[2 CFR § 421](#) – Requirements for Drug-Free Workplace (Financial Assistance)

[2 CFR § 422](#) – Research Institutions Conducting USDA-Funded Extramural Research; Research Misconduct

[7 CFR § 1, subpart A](#) – Official Records (Freedom of Information Act)

[7 CFR § 1\(b\)](#) – National Environmental Policy Act (NEPA). USDA will determine whether NEPA applies and determine the appropriate level of environmental review. USDA may request additional information from applicants for purposes of completing an environmental review.

[7 CFR § 3](#) – Debt Management (OMB Circular No. A-129)

[7 CFR § 15, subpart A](#) – Nondiscrimination in Federally-Assisted Programs of the Department of Agriculture—Effectuation of Title VI of the Civil Rights Act of 1964

[7 CFR § 331](#) and [9 CFR § 121](#) – USDA implementation of the Agricultural Bioterrorism Protection Act of 2002

[37 CFR § 401](#) – Rights to Inventions made by Nonprofit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements

[41 CFR §§ 301-10.131 to 301-10.143](#) – Use of United States Flag Air Carriers, which implements the Fly America Act (49 U.S.C. 40118). For more information see <http://www.gsa.gov/portal/content/103191>.

[48 CFR subpart 31.2](#) – Contracts with Commercial Organizations

[8 U.S.C. § 1324a](#) – Unlawful employment of aliens

[29 U.S.C. § 794](#) – Nondiscrimination under Federal grants and programs

[41 U.S.C. § 22](#) – Interest of Member of Congress

[41 U.S.C. § 4712](#) – Pilot program for enhancement of contractor protection from reprisal for disclosure of certain information

44 U.S.C. § 3551 et seq. ([P.L. 107-347](#)) – Federal Information System Security Management Act of 2002 (FISMA)

[EO 13166](#), *Improving Access to Services for Persons with Limited English Proficiency*, take reasonable steps to ensure that LEP persons have meaningful access to programs in accordance with [LEP Implementation Strategy for AMS' Federally-Assisted Programs](#).

[EO 13798](#), *Promoting Free Speech and Religious Liberty*. As an awardee you must not discriminate against sub awardees on the basis of *their religious character*.

[EO 13858](#), *Strengthening Buy- American Preferences for Infrastructure Project (Except for Section 5, revoked by EO 14005)*

[EO 13864](#), *Improving Free Inquiry, Transparency, and Accountability at Colleges and Universities*

[EO 13988](#), *Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation*

[EO 13991](#), *Protecting the Federal Workforce and Requiring Mask-Wearing*

[EO 13999](#), *Protecting Worker Health and Safety*

[EO 14005](#), *Ensuring the Future Is Made in All of America by All of America's Workers*

Motor Vehicle Safety – *Highway Safety Act of 1966*, as amended ([23 U.S.C. §§ 402 & 403](#)); *Government Organization and Employees Act*, as amended ([5 U.S.C. § 7902 \(c\)](#)); *Occupational Safety and Health Act of 1970*, as amended ([29 U.S.C. § 668](#)); *Federal Property and Administrative Services Act of 1949*, as amended ([40 U.S.C. § 101, et seq.](#)); *Increasing Seat Belt Use in the United States* ([EO 13043](#)); *Federal Leadership on Reducing Text Messaging While Driving* ([EO 13513](#))

Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2012, [P.L. No. 112-55](#), Division A, Sections 738 and 739 regarding corporate felony convictions and corporate Federal tax delinquencies.

11.0 CLOSEOUT

USDA will close out the Federal award when it determines that all applicable administrative actions and all required work of the Federal award are completed by the awardee, as provided in [2 CFR § 200.344](#). If the awardee fails to complete the requirements, USDA will proceed to close out the Federal award with the information available. When an award is closed out, terminated, or partially terminated, the awardee is responsible for compliance with the requirements in [2 CFR § 200.345](#). Upon receiving and accepting all closeout documents, USDA will issue a closeout letter.

The awardee must submit all financial, performance, and other reports as required by these award terms and conditions no later than the period of performance end date. Failure to submit all closeout items by this date will result in USDA reporting the awardee to FAPIIS for material failure to comply with these award terms and conditions, which may result in exclusion from future Federal grant consideration.

11.1 Closeout Checklist

The following documents must be submitted to and approved by USDA to successfully close out a grant:

1. Final Performance Report Template (see [Section 10.2](#));
2. Final SF-425 Federal Financial Report ([Section 10.2](#));
3. Final SF-270 Request for Advance or Reimbursement (see [Section 4.2](#) and subsections);
4. Refund check for any unused funds, if applicable (see [Section 14.2](#));
5. SF-428 B Tangible Personal Property Final Report, if applicable (see [Section 12.1](#)); and

- Audit report, if applicable (see [Section 2.1](#))

11.2 Unused and Returned Funds

Before submitting an SF-425 for a grant that has been completed or terminated, the awardee must liquidate all financial obligations incurred under the Federal award no later than 120 calendar days after the performance period end date of the grant agreement. If the awardee has a balance of funds that USDA previously disbursed and that the awardee did not obligate by the performance end date of the grant agreement, the awardee must return these funds to USDA. USDA's request to return an unobligated balance following expiration or termination of a grant is not considered an adverse action and is not subject to appeal. Contact USDA at flsp@ams.usda.gov for more information.

Because packages sent to USDA through the United States Postal Service may be damaged or delayed due to security procedures, we strongly encourage the use of express mail or courier services.

12.0 RECORD RETENTION

The awardee must retain all records relating to the grant for a period of three (3) years after the final SF-425 is received by USDA or until final resolution of any audit finding or litigation. See [2 CFR § 200.334](#) for exceptions and qualifications to the retention requirement and period for other types of grant-related records, including property records.

The awardee should, whenever practicable, collect, transmit, and store grant-related information in open and machine-readable formats rather than in closed formats or on paper, in accordance with applicable legislative requirements ([EO 13642](#)). A machine-readable format is a standard computer language (not English text) format that can be read automatically by a web browser or computer system.

13.0 ACCESS TO RECORDS

As described in [2 CFR § 200.337](#), USDA, Inspectors General, the Comptroller General of the United States, and the pass-through entity, or any of their authorized representatives, must have right of access to any documents, papers, or records of awardees and subawardees which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the awardee's and subawardee's personnel for interview and discussion related to such documents.

14.0 REMEDIES FOR NONCOMPLIANCE

USDA may take one or more of the following remedies for an awardee's failure to comply with the U.S. Constitution, Federal statutes, regulations, or the award General Terms and Conditions, including reporting requirements, depending on the severity and duration of the noncompliance. In addition to the options listed below, USDA may take other remedies that are legally available, including initiating suspension or debarment under [2 CFR § 180](#).

The awardee may be given an opportunity to correct the deficiencies before USDA takes enforcement action; however, USDA may take proactive steps to protect the Federal government's interests, including placing specific conditions on awards as described in 2 CFR § 200.208 and in accordance with [2 CFR § 200.339](#), such as requiring more frequent reporting or requiring the awardee to obtain technical or management assistance.

14.1 Withdrawal of Authorized Personnel Approval

USDA may withdraw its approval of the AOR and/or other project representatives if the Agency concludes that they are no longer qualified or competent to perform their duties. If this occurs, USDA may request that the awardee designate new AOR or other key personnel. The decision to impose special conditions by withdrawing approval of the AOR or other key personnel, or otherwise, is discretionary on the part of USDA and not subject to appeal.

14.2 Withholding of Payments

USDA may temporarily withhold cash payments pending correction of the deficiency by the awardee, in accordance with [2 CFR § 200.206](#). This decision is discretionary on the part of USDA and not subject to appeal.

14.3 Withholding of Support

USDA may decide not to make an award within the current award cycle if an awardee failed to meet the terms and conditions of a previous award or if continued funding would not be in the best interests of the Federal government.

14.4 Suspension or Termination

USDA may terminate an award in whole or in part per [2 CFR §200.340](#). USDA generally will suspend (rather than immediately terminate) a grant and allow the awardee an opportunity to take appropriate corrective actions before terminating a grant agreement. USDA may terminate the grant if the awardee does not take appropriate corrective actions during the period of suspension or if the grant no longer effectuates the program goals or agency priorities. USDA may also terminate the grant without first suspending if the deficiency warrants immediate termination or if public health or welfare concerns require immediate action. USDA will provide the awardee a notice of termination that includes the reason(s) for the termination and if the decision will be considered in evaluating future applications.

USDA and the awardee may mutually terminate a grant agreement, partially or totally, if the two parties agree upon the termination conditions, including the effective date and the portion to be terminated. The awardee must contact the USDA representative should it decide to terminate all or part of its award. If the awardee decides to terminate a portion of a grant agreement, USDA may determine that the remaining portion of the grant agreement will not accomplish the purposes for which the grant agreement was originally awarded. In that case, USDA will advise the awardee of the possibility of termination of the entire grant and allow the awardees to withdraw its request for partial termination. If the awardee does not withdraw its request for partial termination, USDA may initiate a procedure to terminate the entire grant, which may include reporting the situation to FAPIIS

When an award is terminated or partially terminated, the awardee is responsible for compliance with section [14.0 Closeout](#) requirements.

14.5 Special Conditions for High-Risk Awardees

USDA will evaluate the degree of risk associated with a given awardee and may impose additional award conditions per [2 CFR § 200.206\(b\)](#) on the awardee that corresponds to the degree of risk assessed. This risk assessment may incorporate the results of the evaluation of the applicant's eligibility or the quality of its application. These specific award conditions are specified in [2 CFR § 200.208](#). USDA will promptly remove any special conditions once the conditions that prompted them have been corrected and verified.

15.0 SITE VISITS

USDA may conduct periodic site visits, at its own expense, to review project accomplishments and monitor progress, to review financial and performance records, organizational procedures, and financial control systems, and to provide technical assistance as required. USDA will make every effort to notify the grant awardee at least two weeks in advance of any trip to the USDA-funded project location. If USDA makes any official site visit on the premises of an awardee or a subawardee(s), the awardee must provide, and must require its subawardees to provide, all reasonable facilities and assistance for the safety and convenience of government officials in the performance of their duties. All site visits and evaluations are expected to be performed in a manner designed to not unduly delay the implementation of the project.

16.0 APPEALS

The awardee may appeal a USDA decision to remedy non-compliance by submitting a written request for review to the Federal Agency Project contact, identified in block 9 and 10 of the Notice of Award, unless directed otherwise. The appeal letter must explain the decision or action it is appealing, describe what happened, and include any documentation that substantiates the appeal. USDA will review the notification and respond within 30 calendar days.

USDA encourages all awardees to try to resolve disputes by using Alternative Dispute Resolution (ADR) techniques. The benefits of using ADR can include decreasing time, cost, and other resources expended in resolving conflicts and increasing customer satisfaction. ADR techniques include mediation, early neutral evaluation, and other consensual resolution methods. Awardees must obtain their own mediator.

17.0 LIMIT OF FEDERAL LIABILITY

The maximum obligation of USDA to an awardee is the amount indicated in the award. Nothing in these award terms and conditions or in the other requirements of the award requires USDA to make any additional award of funds or limits its discretion with respect to the amount of funding provided for the same or any other purpose. However, if an erroneous amount is stated in the award, the approved budget, or supporting documentation relating to the award, USDA has a unilateral right to make the correction and to make an appropriate adjustment in the USDA share of the award to align with the Federal amount authorized.

18.0 FRAUD, WASTE, AND ABUSE

Anyone who witnesses or has knowledge of the existence (or apparent existence) of fraud, waste, or abuse related to USDA grants or use of grant funds should report this information to USDA. The USDA Office of Inspector General (OIG) provides several means, including toll-free numbers, for this purpose. Awardees can reach the OIG Hotline in the following ways:

Online: www.usda.gov/oig/hotline
Write: United States Department of Agriculture
Office of Inspector General
PO Box 23399
Washington, DC 20026-3399

Call: 1-800-424-9121 (toll free) or 202-690-1202 (TDD)
Fax: 202-690-2474

Fraud, waste, and abuse include, but are not limited to, embezzlement, misuse, or misappropriation of grant funds or property, and false statements and misrepresentation, whether by organizations or individuals. Examples are theft of grant funds for personal use; using funds for non-grant-related purposes; theft of Federally owned property or property acquired or leased under a grant; charging inflated building rental fees for a building owned by the awardee; submitting false financial reports and submitting false financial data in bids submitted to the awardee (for eventual payment under the grant). Callers are not required to give their names and, if they do, OIG keeps the identity of complainants protected under the provisions of the Whistleblower Protection Act of 1989 and the Inspector General Act of 1978.

The Federal government may pursue administrative, civil, or criminal action under a variety of statutes that relate to fraud and false statements or claims. Even if the Federal government does not award a grant, the applicant may be subject to penalties if the information contained in or submitted as part of an application, including its certifications and assurances, is found to be false, fictitious, or fraudulent.

19.0 PROHIBITION OF CONFIDENTIALITY AGREEMENTS

The prohibition of using funds under grants and cooperative agreements with entities that require certain internal confidentiality agreements are described below.

- (a) The awardee may not require its employees, contractors, or subawardees 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.
- (b) The awardee must notify its employees, contractors, or subawardees that the prohibitions and restrictions of any internal confidentiality agreements inconsistent with paragraph (a) of this award provision are no longer in effect.
- (c) The prohibition in paragraph (a) 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.
- (d) If the Government determines that the awardee is not in compliance with this award provision, it:
 - (1) Will prohibit the awardee's use of funds under this award, in accordance with sections 743, 744 of Division E of the Consolidated Appropriations Act, 2016, (Pub. L. 114-113) or any successor provision of law; and
 - (2) May pursue other remedies available for the awardee's material failure to comply with award terms and conditions.

20.0 PAPERWORK REDUCTION

According to the Paperwork Reduction Act of 1995, an Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The valid OMB control number for this information collection is 0581-0240. The time required to complete this information collection is estimated to average 9.75 hours per response, including the time for reviewing

instructions, searching existing data sources, gathering, and maintaining the data needed, and completing and reviewing the collection of information.

21.0 NONDISCRIMINATION STATEMENT

USDA is an equal opportunity provider, employer, and lender. Awardees should follow the instructions found at <https://www.usda.gov/non-discrimination-statement>.