



Agricultural Marketing Service (AMS)

Grants Division

General Terms and Conditions

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1.0 OVERVIEW OF GENERAL TERMS AND CONDITIONS

The Agricultural Marketing Service (AMS) Grants Division general terms and conditions apply to all AMS grant agreements and provide the requirements for a recipient's grant. The term "grant" is used to mean either grants or cooperative agreements. The general terms and conditions are determined by statutory, regulatory, and agency requirements, as well as by administrative policies. When applicable, program-specific terms and conditions may be included with your award. If there are differences, the program specific terms and conditions overrides the general terms and conditions. By accepting a grant agreement with AMS, recipients accept responsibility for all applicable terms and conditions. Failure to comply may result in actions described in section [17.0 Remedies for Noncompliance](#).

AMS uses GrantSolutions (GS) as its online grants and agreements management system and the Payment Management System (PMS) for processing grant payments.

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

Throughout the AMS general terms and conditions, the use of the word "must" 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
AMS	Agricultural Marketing Service
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
FAPIIS	Federal Awardee Performance and Integrity Information System
GAAP	Generally Accepted Accounting Principles
GAGAS	Generally Accepted Government Auditing Standards
GSA	General Services Administration
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
USDA	United States Department of Agriculture

1.2 Order of Precedence

If there is an inconsistency between award provisions, AMS 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, including the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
3. Program-Specific Terms and Conditions of Award (if applicable)
4. AMS General Terms and Conditions for Grants Agreements
5. Agency policy
6. Application documents

1.3 Definitions

AMS aligns its grant term definitions to the maximum extent possible with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards ([2 CFR § 200.1](#)). Pertinent definitions from 2 CFR Part 200 referenced in this document are highlighted below:

- *Acquisition cost* means the cost of the asset including the cost to prepare the asset for its intended use. Acquisition cost for equipment is the net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for its acquired purpose.
- *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 recipients are authorized to expend the funds awarded, including any funds carried forward or other revisions pursuant to [2 CFR § 200.308](#).
- *Cost sharing or matching* means the portion of project costs not paid by Federal funds or contributions (unless otherwise authorized by Federal statute). See also [2 CFR § 200.306](#).
- *Equipment* means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or \$5,000.
 - *General Purpose Equipment* means equipment which is not limited to research, medical, scientific, or other technical activities. Examples could include office furniture, air conditioners, or copiers.
 - *Special Purpose Equipment* means equipment which is used only for research, medical, scientific, or other technical activities. Examples could include food processing equipment, cold storage units, or other items that are necessary to carry out the technical activities of the grant.
 - *Information Technology Systems and Telecommunications* Information technology systems include computing devices, ancillary equipment, software, firmware, and similar procedures, services (including support services), and related resources. Computing devices means machines used to acquire, store, analyze, process, and publish data and other information electronically, including accessories (or “peripherals”) for printing, transmitting and receiving, or storing electronic information. Examples of unallowable information technology systems include service contracts, operating systems, printers, and computers that have an acquisition cost of \$5,000 or more. See also special prohibition on the purchase of certain telecommunications and video surveillance described in [2 CFR § 200.216](#).
- *Federal award* means the Federal financial assistance that a recipient 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.

- *Intangible property* means property having no physical existence, such as trademarks, copyrights, patents and patent applications and property, such as loans, notes and other debt instruments, lease agreements, stock and other instruments of property ownership (whether the property is tangible or intangible).
- *Non-Federal entity* means a state, local government, Indian tribe, Institution of Higher Education (IHE), or nonprofit organization that carries out the award as a recipient or subrecipient. These award terms and conditions apply to non-Federal entities.
- *Pass-through entity* means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.
- *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\(d\)\(2\)](#). The period of performance 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.
- *Program income* means gross income earned by the recipient and/or subrecipient that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance except as provided in [2 CFR § 200.307\(f\)](#).
- *Recipient* means an entity, usually but not limited to non-Federal entities, that receives a Federal award directly from a Federal awarding agency. The term recipient does not include subrecipients or individuals that are beneficiaries of the award.
- *Subaward* means an award provided by a recipient to a subrecipient for the subrecipient to carry out part of a Federal award received by the recipient. 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.
- *Subrecipient* means an entity, usually but not limited to non-Federal entities, that receives a subaward from a recipient to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.
- *Unrecovered indirect cost* ([2 CFR § 200.306\(c\)](#)) means the difference between the amount charged to the Federal award and the amount that could have been charged to the Federal award under the potential recipient's approved negotiated indirect cost rate.

2.0 FINANCIAL MANAGEMENT

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

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

Recipients must expend and account for funds under an award by following their State laws and procedures. Financial management systems and related records, of the grant recipient, 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.

A recipient'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 title and number;
 - b. The Federal Award Identification Number (FAIN) and Federal fiscal year awarded;
 - c. The name of the Federal Agency; and
 - d. The name of the PTE or recipient, 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 about 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.
- 4) Effective control over, and accountability for, all funds, property, and other assets. Recipients must adequately safeguard all assets and assure that they are used solely for authorized purposes.
- 5) Comparison of expenditures with budget amounts for each Federal award.
- 6) Written procedures to implement the [2 CFR § 200.305](#) requirements, which minimize the time elapsing between the transfer of Federal funds to any recipient and the disbursement of the funds for direct program costs and the proportionate share of any allowable indirect or facilities and administrative costs.
- 7) Written procedures for determining the allowability of costs following the terms and conditions of this award.

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

2.1 Audit Requirements

Recipients (other than Federal agencies and for-profit recipients) are responsible for obtaining audits in accordance with the [2 CFR § 200 Subpart F](#). These standards require any recipient 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 [Generally Accepted Government Auditing Standards \(GAGAS\)](#)

Recipients 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 recipient.

Recipients 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://www.facweb.census.gov/>. Any future updates to the location of the FAC may be found at the OMB website at <https://www.whitehouse.gov/omb/>.

2.2 Cost Sharing or Matching

If the grant agreement has specific cost sharing or matching requirements, the recipient must ensure that it complies with the applicable provisions found in [2 CFR § 200.306](#). The recipient may use funds or other resources contributed by other non-Federal entities to satisfy the cost sharing or matching requirement. Cost sharing or matching in the form of cash and/or in-kind non-Federal resources must be directly related to the project's objectives and may not be included as contributions for any other Federal award. If a recipient volunteers cost sharing above the program's required amount, the total becomes a binding requirement of Federal award outlined in [2 CFR § 200.1](#).

Recipients must maintain documentation identifying:

- The specific costs or contributions that constitute the cost sharing or matching;
- The funding source or contribution; and
- How the appropriate amount of the contribution was determined for reporting purposes.

Recipients do not need to routinely provide documentation to AMS, but the documentation must be retained in the recipient project files and made available upon request.

A recipient may use unrecovered indirect costs as part of cost sharing or matching.

Recipients cannot use Federal funds or program income to meet cost sharing or matching requirements.

The recipient must request prior approval from AMS before the amount of the approved cost share or match provided by the recipient can change (see section [9.9 Cost Share or Match--Changes in the Amount](#)).

3.0 SUBRECIPIENT MONITORING & MANAGEMENT

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

If the recipient uses subawards, it must enter into a formal written agreement with each subrecipient 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.

Recipients must evaluate each subrecipient's risk and establish monitoring activities as necessary to ensure each subrecipient 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;
- Onsite reviews of subrecipient program operations; and
- Providing training and technical assistance on programmatic activities.

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

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

Recipients with subawards of more than \$30,000 must report on subrecipients in the Federal Funding Accountability and Transparency Act Subaward Reporting System at <https://www.fsrs.gov/>. This reporting should occur as soon as possible once there is a signed grant agreement with the subrecipient. Please see [Appendix A to 2 CFR § 170](#) for additional reporting requirements concerning subawards.

4.0 PAYMENTS

4.1 Types of Payments

Advance – An advance payment is a payment that AMS or a pass-through entity makes before recipient or subrecipient spends the funds for program purposes. In accordance with [2 CFR 200.305 \(b\)\(1\)](#), requests for advance payments must be limited to the minimum amounts needed to meet actual and immediate cash needs. The timing and amount must be as close as is administratively feasible to the actual disbursements by the recipient. All advance payments must be accompanied by a written justification.

Reimbursements – Reimbursements are transfers of Federal funds to recipients after the recipient pays out funds for approved project activities.

4.2 How to Request Payments

AMS grant recipients are required to request payments electronically through the PMS system. Recipients not already enrolled must register in the system to request payments. Instructions for requesting a payment can be found in the Payment Management System. To access the instructions, log in to the [Payment Management System \(PMS\)](#). Once logged in, select “Payment” from the Menu, and then select Payment Request User Guide. Further information is available at <https://pms.psc.gov/training/pms-user-guide.html>.

AMS SF-270 and Grant Program Worksheet

If required by the grant agreement, an [SF-270](#) and [AMS Grant Program Worksheet](#) must be attached in PMS when submitting a payment. The Notice of Award provisions section will indicate if the recipient is required to submit an AMS Grant Program Worksheet.

Receipt of Request by AMS

AMS will confirm receipt of the payment request, review the request, and communicate with the appropriate recipient representatives.

Upon approval, payments will be made via EFT to the bank account specified by the recipient in [PMS](#) and [SAM.gov](#). If the bank information is incorrect or changes at any time during the grant period, it is the recipient's responsibility to update both their SAM.gov and PMS information and notify AMS to ensure proper and timely deposit of funds.

4.3 Payment Source Documentation and Other Requirements

Recipients must collect and maintain source documentation associated with costs incurred as a result of the Federal award and make it available to AMS 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 recipients 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.

4.4 Timely Drawdown and Use of Grant Funds

Recipients may be subject to specific award conditions as described in [2 CFR § 200.208](#), if the recipient does not draw down funds within the first year of the grant period and at reasonable intervals thereafter.

5.0 INTEREST EARNED AND ADVANCES OF GRANTS FUNDS

In accordance with [2 CFR § 200.305\(b\)\(9\)](#), the recipient may retain interest earned on Federal payments deposited in interest-bearing accounts up to \$500 per year for administrative expenses. Any additional interest earned must be remitted annually to the Payment Management System (PMS), which handles payments to the Treasury. The recipient must remit the interest electronically using either an ACH network or a Fedwire Funds Service payment. If returning interest on Federal awards, the refund should:

- a) Provide an explanation stating that the refund is for interest;
- b) List the PMS payee account number(s) (PANs);
- c) List the Federal award number(s) for which the interest was earned; and
- d) Make returns payable to the Department of Health and Human Services.

Submit the remittance using one of the following example formats:

ACH Return Example:

Routing Number:	051036706
Account Number:	303000
Bank Name and Location:	Credit Gateway—ACH Receiver St. Paul, MN

Fedwire Returns Example: (Please note that the organization initiating payment is likely to incur a charge from your Financial Institution for this type of payment)

Routing Number:	021030004
Account Number:	75010501
Bank Name and Location:	Federal Reserve Bank Treasurer NYC/Funds Transfer Division New York, NY

If a recipient does not have the ability to remit funds electronically, it should instead mail a check to the U.S. Treasury approved lockbox, made payable to:

HHS Program Support Center
P.O. Box 530231
Atlanta, GA 30353-0231

Allow 4-6 weeks for check payments to be applied to the appropriate PMS account. For additional information please contact PMS at 877-614-5533 or PMSupport@psc.hhs.gov.

6.0 PROGRAM INCOME

Unless otherwise stated in the Notice of Award provisions section, AMS authorizes the use of program income through the additive method ([2 CFR § 200.307\(e\)\(2\)](#)). Any program income generated during the grant period must be used to further the objectives of the project and under the conditions of the award. All program income must be recorded on the Federal Financial Report (SF-425) for the period in which it was earned. Recipients are not accountable for program income earned after the grant period. Program income includes, but is not limited to:

- Income from fees for services performed during the period of performance;
- The use or rental or real or personal property acquired under a federal award;
- The sale of commodities or items fabricated under an award (this includes items sold at cost if the cost of producing the item was funded in whole or part with grant funds); and
- Registration fees for conferences, workshops, etc.

License fees and royalties or equivalent income earned from patents, inventions, trademarks, and copyrighted works are not subject to this section.

7.0 PROCUREMENTS

Recipients may acquire commercially available goods and services in connection with a project. In doing so, the recipient must have in place and use documented procurement procedures, consistent with applicable State, local and tribal laws and regulations. Recipients' 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 recipient should provide a preference for acquisition of goods, products and services produced in the United States, per [2 CFR § 200.322](#).

- ***State recipients*** must follow the same policies and procedures the State uses for procurements from non-Federal funds. The State will comply with [2 CFR §§ 200.321](#) through [200.323](#) and ensure that every purchase order or other contract includes applicable provisions described in [Appendix II of 2 CFR § 200](#).
- ***All other non-Federal recipients*** must follow [2 CFR §§ 200.318](#) through [200.327](#).
- The requirements of the Federal award also apply to any subcontract. The recipient is responsible for ensuring that all of its contracts made in connection with the AMS project contain the applicable provisions described in [Appendix II of 2 CFR § 200](#).

8.0 ALLOWABLE COST AND ACTIVITIES

8.1 Indirect Costs

Indirect costs as defined at ([2 CFR § 200.1](#)) represent the expenses of doing business that are not readily-identified with a particular grant, contract, project function or activity, but are necessary for the general operation of the organization and the conduct of activities it performs. Refer to [2 CFR §§ 200.413](#) and [200.414](#) for additional information on determining if costs charged to the award are direct or indirect.

Federally Negotiated Indirect Cost Rates

Unless otherwise required by statute or regulation, AMS will accept Federally negotiated rates.

De Minimis Rate Option

Any nonfederal entity that does not have a current, negotiated (including provisional) rate, except for those non-Federal entities described in [Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost Proposals, paragraph D.1.b.](#), may elect to charge a de minimis rate of 10 percent of Modified Total Direct Costs (MTDC) which may be used indefinitely. No documentation is required to justify the 10% de minimis cost rate. Costs must be consistently charged as either indirect or direct costs but may not be double charged or inconsistently charged as both ([2 CFR § 200.403](#)). If chosen, this methodology, once elected, must be used consistently for all Federal awards until such time when a recipient chooses to negotiate for a rate, which the recipient may apply to do at any time.

All applicants who elect to charge a de minimis rate of 10 percent must use the MTDC as the base. MTDC is defined in [2 CFR § 200.1](#) as all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of each subaward (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs, and the portion of each subaward in excess of \$25,000. Other items may be excluded only when necessary to avoid a serious inequity in the distribution of indirect costs, and with the approval of the cognizant agency for indirect costs.

If a nonfederal entity chooses to negotiate for a rate, that entity must contact its cognizant Agency for indirect costs.

Indirect Costs for Subawards

Pass-through entities are also required to accept federally negotiated indirect cost rate (NICRA) rates for subaward recipients, unless otherwise required by statute or regulation. For subaward recipients that do not have a NICRA, the passthrough entity may use a negotiated rate between them from previous negotiation or may allow use of a de minimis rate as described above in this section.

8.2 Allowable and Unallowable Costs and Activities

The following table summarizes allowable and unallowable costs in common categories for AMS grant programs. The recipient should consult the Federal Cost Principles ([Subpart E-Cost Principles of 2 CFR § 200](#)) for the complete explanation of the allowability of costs. In addition to the general award terms and conditions, some programs have program-specific terms and conditions. If recipients have questions concerning the allowability of costs after reviewing this section and any applicable program specific terms and conditions, they should contact the Grants Management Specialist listed on the Request for Application or the Notice of Award as applicable.

Per [2 CFR § 200.403](#), all costs must meet the general criteria to be allowable and must be incurred during the period of performance.

Note: Allowable costs listed below may also be cost shared or brought as part of the required match. Unallowable costs cannot be brought as a cost-share or match.

Cost Category	Affected AMS Grant Program(s)	Description, Guidance and Exceptions
Advisory Councils	ALL with exceptions	Unallowable for costs incurred by advisory councils or committees, unless specifically fulfilling the purpose or approved activities of a grant program or project.
Alcoholic Beverages	ALL with exceptions	Unallowable for alcoholic beverages unless the cost is associated with fulfilling the purpose of the grant program and either approved in the application or with prior written approval.
Buildings and Land – Construction	ALL with exceptions	<p>Unallowable for the acquisition of buildings, facilities, or land or to make new constructions, additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations of an existing building or facility (including site grading and improvement, and architecture fees), unless the cost is associated with fulfilling the purpose of the grant program or with prior written approval. This also includes construction-related materials, which may include, but are not limited to, the purchase of building materials such as wood, nails, concrete, asphalt, roofing, gravel, sand, paint, insulation, drywall, or plumbing.</p> <p>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 cycle.</p> <p>A building is any permanent structure designed or intended for support, enclosure, shelter, or protection of people, animals, or property, and having a permanent roof supported by columns or walls.</p>
Conferences	ALL with exceptions	<p>Allowable if the conference fulfills the grant program's purpose. Allowable conference costs paid by the non-Federal recipient as a sponsor or host of the conference may include rental of facilities, speakers' fees, costs of meals (see Meals for restrictions), and refreshments, local transportation, and other items incidental to such conferences with the exception of entertainment costs that are unallowable. If registration fees are collected, the recipient must report fees as program income (see Program Income).</p> <p>Allowable to rent a building or room for training; however, where appropriate, AMS encourages the use of technologies such as webinars, teleconferencing, or videoconferencing as an alternative to renting a building or a room. The recipient should use the most cost-effective facilities, such as State government conference rooms if renting a building or a room is necessary.</p>
Contingency Provisions	ALL	Unallowable for miscellaneous and similar rainy-day funds for events the occurrence of which cannot be foretold with certainty as to the time or intensity, or with an assurance of their happening. Unallowable for working capital for activities/items not already in place.

Cost Category	Affected AMIS Grant Program(s)	Description, Guidance and Exceptions
Contractual/Consultant Costs (Professional Services)	ALL	<p>Allowable subject to limitations. Contractual/consultant costs are expenses associated with purchasing goods and/or procuring services performed by an individual or organization other than the recipient in the form of a procurement relationship.</p> <p>Allowable for contractor/consultant employee 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 recipient is required to justify the allowability of the cost aligning with 2 CFR §§ 200.317-327.</p>
Contributions or Donations	ALL	<p>Unallowable for contributions or donations, including cash, property, and services, made by the recipient to other entities. A nonfederal entity using grant funds to purchase food or services to donate to other entities and/or individuals is unallowable.</p>
Electronic Benefit Transfer (EBT) Machines	ALL	<p>Unallowable for the purchase/lease of Supplemental Nutrition Assistance Program (SNAP) EBT equipment.</p>
Entertainment Costs	ALL with exceptions	<p>Unallowable for entertainment costs including amusement, diversion, and social activities and any costs directly associated with such costs (such as bands, orchestras, dance groups, tickets to shows, meals, lodging, rentals, transportation, and gratuities). Entertainment costs are defined in 2 CFR § 200.438.</p> <p>Allowable where the specific cost is considered to meet the requirements of the sponsored program and are authorized in the approved budget or with prior written approval.</p>
Equipment – General Purpose	ALL	<p>Unallowable for acquisition costs of general purpose equipment or lease agreements to own (i.e., lease-to-own or rent-to-own). Allowable for rental costs of general purpose equipment when provided in the approved budget or with prior written approval. ‘General Purpose’ vehicles may not be purchased and may only be leased with prior written approval (and only if specific to fulfilling the purpose of the grant). The lease or rental agreement must terminate at the end of the grant cycle.</p> <p>For vehicle and equipment leases or rentals with an acquisition cost that equals or exceeds \$5,000, rates should be in light of factors such as: rental costs of comparable vehicles and equipment, if any; market conditions in the area; alternatives available; and the type, life expectancy, condition, and value of the vehicle or equipment leased.</p> <p>Allowable if special purpose equipment (and NOT general purpose equipment). Special purpose equipment is defined below in this chart under “Equipment – Special Purpose.”</p>

Cost Category	Affected AMIS Grant Program(s)	Description, Guidance and Exceptions
Equipment – Information Technology Systems and Telecommunications	ALL	<p>Unallowable for information technology systems having a useful life of more than one year and a per-unit acquisition cost that equals or exceeds the lesser of the capitalization level established in accordance with GAAP by the recipient for financial statement purposes or \$5,000. Acquisition costs for software include those development costs capitalized in accordance with GAAP. Information technology systems include computing devices, ancillary equipment, software, firmware, and similar procedures, services (including support services), and related resources. Computing devices means machines used to acquire, store, analyze, process, and publish data and other information electronically, including accessories (or “peripherals”) for printing, transmitting and receiving, or storing electronic information. Examples of unallowable information technology systems include service contracts, operating systems, printers, and computers that have an acquisition cost of \$5,000 or more. See also special prohibition on the purchase of certain telecommunications and video surveillance described in 2 CFR § 200.216.</p> <p>Allowable for special purpose systems specific to the food and agricultural sectors and specific to the activities in the grant. Examples include food sales and traceability applications, systems and software that support specialized equipment by design and website development, mobile apps, etc.,</p>

Cost Category	Affected AMIS Grant Program(s)	Description, Guidance and Exceptions
Equipment – Special Purpose	ALL	<p>Allowable when provided in the approved budget or with prior written approval for acquisition costs and rental costs of special purpose equipment provided the following criteria are met:</p> <ol style="list-style-type: none"> 1. Necessary for the research, scientific, or other technical activities of the grant agreement; 2. Not otherwise reasonably available and accessible; 3. The type of equipment is normally charged as a direct cost by the organization; 4. Acquired in accordance with organizational practices; 5. Must be used solely to meet the legislative purpose of the grant program and objectives of the grant agreement; 6. More than one single commercial organization, commercial product, or individual must benefit from the use of the equipment; 7. Must not use special purpose equipment acquired with grant funds to provide services for a fee to compete unfairly with private companies that provide equivalent services; and 8. Equipment is subject to the full range of acquisition, use, management, and disposition requirements under 2 CFR § 200.313 as applicable. <p>Examples of special purpose equipment in the agricultural sector include, but are not limited to: sorting equipment, packing and labeling equipment, food processing equipment essential to the grant-funded project, purpose specific vehicles or trailers, such as refrigerated vans that will not be used as personal vehicles.</p>
Farm, Gardening, and Production Activities and Supplies	ALL with exceptions	<p>Unallowable for farm, gardening, and production activities, materials, supplies, and other related costs including but not limited to soil, seeds, shovels, gardening tools, greenhouses, and hoop houses.</p> <p>Allowable where the specific cost is considered to meet the requirements of grant and is authorized in the approved budget or with prior written approval.</p>
Fines, Penalties, Damages and Other Settlements	ALL	<p>Unallowable for costs resulting from violations of, alleged violations of, or failure to comply with, Federal, State, tribal, local, or foreign laws and regulations.</p>

Cost Category	Affected AMIS Grant Program(s)	Description, Guidance and Exceptions
Fixed Amount Subawards	ALL with exceptions	<p>Unallowable for cost related to fixed amount subawards. Allowable to meet the requirements of the grant award (noncompetitive) or with prior written approval. A recipient may provide subawards based on fixed amounts up to the simplified acquisition threshold, provided that the subawards meet the requirements for fixed amount awards in 2 CFR § 200.201.</p>
Fundraising and Investment Management Costs	ALL	<p>Unallowable for organized fundraising, including financial campaigns, solicitation of gifts and bequests, and similar expenses incurred to raise capital or obtain contributions, regardless of the purpose for which the funds will be used. This includes salaries of personnel involved in activities to raise capital.</p>
General Costs of Government	ALL	<p>Unallowable for:</p> <p>Salaries and expenses of the Office of the Governor of a State or the chief executive of a local government or the chief executive of an Indian tribe;</p> <p>Salaries and other expenses of a State legislature, tribal council, or similar local governmental body, such as a county supervisor, city council, school board, etc., whether incurred for purposes of legislation or executive direction;</p> <p>Costs of the judicial branch of a government;</p> <p>Costs of prosecutorial activities unless treated as a direct cost to a specific program if authorized by statute or regulation (however, this does not preclude the allowability of other legal activities of the Attorney General as described in 2 CFR § 200.435 Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements); and</p> <p>Costs of other general types of government services normally provided to the general public, such as fire and police, unless provided for as a direct cost under a program statute or regulation.</p>
Goods or Services for Personal Use	ALL	<p>Unallowable for costs of goods or services for personal use of the recipient's employees regardless of whether the cost is reported as taxable income to the employees.</p>
Indirect Costs – Unrecovered	ALL with exceptions	<p>Unallowable for unrecovered indirect costs.</p> <p>Allowable for projects with match requirements to use unrecovered indirect costs as part of cost sharing or matching.</p>
Insurance and Indemnification	ALL	<p>Allowable when provided in the approved budget or with prior written approval as indirect costs for insurance and indemnification.</p>
Lobbying	ALL	<p>Unallowable as defined in 2 CFR § 200.450.</p>

Cost Category	Affected AMS Grant Program(s)	Description, Guidance and Exceptions
Meals	ALL	<p>Unallowable for business meals when individuals go to lunch or dine together although no need exists for continuity of a meeting. Such activity is considered an entertainment cost.</p> <p>Unallowable for conference attendee breakfasts. It is expected attendees will have adequate time to obtain this meal on their own before a conference begins.</p> <p>Unallowable for meal costs that duplicate a meeting participant's per diem or subsistence allowances.</p> <p>Allowable for lunch or dinner meals if the costs are reasonable, and a justification is provided that such activity maintains the continuity of the meeting and to do otherwise will impose arduous conditions on the meeting participants.</p> <p>Allowable for meals consumed while in official travel status. They are considered per diem expenses and should be reimbursed in accordance with the organization's established written travel policies.</p>
Memberships, Subscriptions, and Professional Activity Costs	ALL	<p>Unallowable for costs of membership in any civic or community organization.</p> <p>Allowable for costs of membership in business, technical, and professional organizations when provided in the approved budget or with prior written approval.</p>
Organization Costs	ALL	<p>Unallowable for costs of investment counsel and staff and similar expenses incurred to enhance income from investments.</p> <p>Allowable with prior approval for organization costs per 2 CFR § 200.455.</p>
Participant Support Costs	ALL	<p>Allowable when provided in the approved budget or with prior written approval for such items as stipends or subsistence allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with approved conferences, training projects, surveys, and focus groups.</p>
Political Activities	ALL	<p>Unallowable for development or participation in political activities, in accordance with provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and §§ 7324-7326).</p>
Pre-Award Costs (see also section 9.5 below)	ALL	<p>Allowable when provided in the approved budget or with prior written approval of such costs are necessary for efficient and timely performance of the project's scope of work. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the Federal award. If charged to the award, these costs must be charged to the initial budget period of the award, unless otherwise specified by AMS. A recipient may incur pre-award costs 90 calendar days before the award.</p> <p>Expenses more than 90 calendar days pre-award require prior approval. These costs and associated activities must be included in the recipient's project narrative and budget justification. All costs incurred before the award are at the potential recipient's risk. The incurrence of pre-award costs in anticipation of an award imposes no obligation on AMS to award funds for such costs.</p>

Cost Category	Affected AMS Grant Program(s)	Description, Guidance and Exceptions
Printing and Publications	ALL	<p>Allowable to pay the cost of preparing informational leaflets, reports, manuals, and publications relating to the project; however, the printing of hard copies is discouraged given the prevalence of electronic/virtual publication means. If charged to the award, these costs must be charged to the final budget period of the award, unless otherwise specified by AMS.</p>
Salaries and Wages	ALL	<p>Allowable as part of employee compensation for personnel services in proportion to the amount of time or effort an employee devotes to the grant-supported project or program during the period of performance under the Federal award, including salaries, wages, and fringe benefits. Such costs must be incurred under formally established policies of the organization, be consistently applied, be reasonable for the services rendered, and be supported with adequate documentation.</p> <p>Salary and wage amounts charged to grant-supported projects or programs for personal services must be based on an adequate payroll distribution system that documents such distribution in accordance with generally accepted practices of like organizations. Standards for payroll distribution systems are contained in the applicable cost principles (other than those for for-profit organizations).</p> <p>Unallowable for salaries, wages, and fringe benefits for project staff who devote time and effort to activities that do not meet the purpose of the grant program.</p>
Selling and Marketing Costs – Promotion of an Organization’s Image, Logo, or Brand Name	ALL	<p>Unallowable for costs designed solely to promote the image, logo, or brand for a specific organization or business, unless specifically to fulfill the purpose of the program or grant project.</p> <p>Allowable for more general branding that aligns with the purpose of the grant. For example, in Specialty Crop Block Grant, promotional items could say “Buy STATE/COUNTY Grown Apples” but not “XYZ Grown”, which promotes XYZ generically, to ensure funds are supporting specialty crop stakeholders. Similarly, a promotional campaign to increase producer sales of “STATE/COUNTY Grown fruits and vegetables” is acceptable while increasing membership in “STATE/COUNTY Grown” generally is not.</p>
Selling and Marketing Costs – Promotion of Venues that do not Align with Grant Program Purpose	ALL	<p>Unallowable for costs for promotion of specific venues, tradeshows, events, meetings, programs, conventions, symposia, seminars, etc. that do not align with the purpose of the grant program as stated in the RFA.</p>
Selling and Marketing Costs – Promotional Items, Gifts, Prizes, etc.	ALL with exceptions	<p>Unallowable for promotional items, swag, gifts, prizes, memorabilia, and souvenirs.</p> <p>Allowable with conditions to meet the requirements of the grant, in the approved application or with prior approval for marketing activities directly related to the funded project. Promotional items include point-of-sale materials, promotional kits, signs or streamers, automobile stickers, table tents, and placemats, or promotional items of a personal nature (e.g., t-shirt, hats, etc.).</p>

Cost Category	Affected AMIS Grant Program(s)	Description, Guidance and Exceptions
Selling and Marketing Costs – Coupons, Incentives or Other Price Discounts	ALL	<p>Unallowable for costs of the value of coupon/incentive redemptions or price discounts (e.g., the \$5.00 value for a \$5.00 clip-out coupon).</p> <p>Allowable for costs associated with printing, distribution, or promotion of coupons/tokens or price discounts (e.g., a print advertisement that contains a clip-out coupon) as long as they benefit more than a single program or organization.</p>
Selling and Marketing Costs – Food for Displays, Tastings, Cooking Demonstrations	ALL with exceptions	<p>Unallowable for purchasing food for displays, tastings, and cooking demonstrations.</p> <p>Allowable where the specific cost is considered to meet the programmatic purpose of the grant and is authorized in the approved budget or with prior written approval.</p>
Selling and Marketing Costs – General Marketing Costs	ALL with exceptions	<p>Unallowable for costs designed solely to promote the image of an organization, general logo, or general brand.</p> <p>Allowable for costs designed to promote products that align with the purpose of the grant program.</p>
Selling and Marketing Costs – Sponsorships	ALL	<p>Unallowable for costs associated with sponsorships. A sponsorship is a form of advertising in which an organization uses grant funds to have its name and/or logo associated with certain events and where the organization does not necessarily know how the funds associated with sponsorship costs will be used. These costs also benefit only the organization offering funding, limiting the beneficiaries to the sponsor organization.</p>
Selling and Marketing Costs – Use of Meeting Rooms, Space, exhibits that do not Align with Grant Program Purpose	ALL	<p>Unallowable for costs associated with trade show attendance/displays, meeting room reservations, and/or any other displays, demonstrations, exhibits, or rental of space where activities do not specifically align with the purpose of the grant program. See Conferences for more information.</p>
Supplies and Materials, Including Costs of Computing Devices	ALL	<p>Allowable for costs incurred for materials, supplies, and fabricated parts necessary to carry out a Federal award. Purchased materials and supplies must be charged at their actual prices, net of applicable credits. Withdrawals from general stores or stockrooms should be charged at their actual net cost under any recognized method of pricing inventory withdrawals, consistently applied. Incoming transportation charges are a proper part of materials and supplies costs. Only materials and supplies used for the performance of a Federal award may be charged as direct costs.</p> <p>A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the recipient for financial statement purposes or \$5,000, regardless of the length of its useful life. In the specific case of computing devices, charging as a direct cost is allowable for devices that are essential and allocable, but not solely dedicated, to the performance of a Federal award. Where Federally donated or furnished materials are used in performing the Federal award, such materials will be used without charge.</p>
Training	ALL	<p>Allowable when the training is required to meet the objectives of the project or program, including training that is related to Federal grants management.</p>

Cost Category	Affected AMS Grant Program(s)	Description, Guidance and Exceptions
Travel – Domestic and Foreign	ALL	<p>Allowable for travel, when provided in the approved budget or with prior written approval when costs are limited to those allowed by formal organizational policy and the purpose aligns with the purpose of the program.</p> <p>The allowable travel cost of recipients that do not have formal travel policies and for-profit entities may not exceed those established by the Federal Travel Regulation, issued by General Services Administration (GSA), including the maximum per diem and subsistence rates prescribed in those regulations. If a recipient does not have a formal travel policy, those regulations will be used to determine the amount that may be charged for travel costs.</p>

9.0 CHANGES REQUIRING PRIOR WRITTEN APPROVAL

The recipient may need to make modifications to approved workplans or application documents such as budget, personnel, or contracts, to accomplish the objectives during the period of performance. Recipients are required to request prior written approval for the following items from AMS in advance of a change or obligation of funds. Requests for prior written approval must be submitted by the recipient project director and signed by the AOR, if applicable. Requests for a prior written approval must include the following information:

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

AMS will confirm receipt, review the request, and communicate with the recipient project director. The recipient project director may revise the prior approval request to address any questions or concerns. Once accepted, AMS will email the recipient project director with the acceptance of the request.

9.1 Change in Key Personnel/Time Devoted to the Project

Prior approval is required for changes in key personnel, or if key personnel disengage from the project for a period of more than three months, reduces the time devoted to managing the project by 25 percent (25%) or more, or severs his/her connection to the activities of the grant agreement. Key personnel include the recipient project director or AOR listed in the Notice of Award as well as other key project contributors. The request must include:

1. The name of the individual(s) being replaced and the new individual name and contact information;
2. The qualifications (CV or resume) of the new individual(s);
3. The capacity in which the new individual will serve;
4. Written notification from the new individual signifying his/her willingness to serve on the project; and
5. The effective date.

A change in key personnel may affect the project narrative, budget, or timeline. If it does, the recipient must include this in their request by following the applicable guidance in this section.

9.2 Change in Scope or Objectives

Prior approval is required to modify the scope or objective of the project or program, including adding new project(s) or discontinuing project(s) (if applicable).

Prior written approval is required even if there were no associated budget revision that would require prior approval. The recipient must use the same format/template to present this information that was used in the approved application with the changes noted. The request must include:

1. A description of the change in the scope or objective including what activities the new work replaces;
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, budget (Federal and matching funds), or timeline. If it does, the recipient must make revisions and include this in their request by following the applicable guidance in this section.

9.3 One-Time Extension

If the grant activities cannot be completed within the grant agreement's period of performance, the recipient must request written approval to extend the grant agreement's end date (no-cost extension of time) prior to the grant's expiration. The recipient 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 since then;
4. An estimate of the amount of remaining funds, and if applicable, the amount of matching resources yet to be expended, and a description of how they will be used in the remaining time; and
5. A new workplan or timetable for completing the project.

Unused or unobligated funds at the end of the award are not in themselves justification to receive a no-cost time extension. AMS 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.

9.4 Budget Change

Prior approval is required for a budget change if the Federal share of its grant agreement exceeds the Simplified Acquisition Threshold as stated in 48 CFR 2.101 "Simplified acquisition threshold", (see block 20 and 33 on the Notice of Award) for the Federal award amount, and the cumulative amount of a transfer among budgeted direct cost categories or between individual subawards exceeds or is expected to exceed 10 percent of the total Federal award budget as last approved by AMS. The request must include:

1. A justification for the change;
2. A description of the requested change that includes:
 - a. The proposed budget change,
 - b. The last approved budget, and
 - c. An updated budget for the affected cost categories; and
3. Applicable Budget Forms

If the Federal share of the Federal award is less than the Simplified Acquisition Threshold, recipients do not need to request prior approval for budget changes.

9.5 Pre-Award Costs

As defined in [2 CFR §200.458](#), pre-award costs are costs incurred prior to the effective date of the Federal award directly pursuant to the negotiation and in anticipation of the Federal award where such costs are necessary for efficient and timely performance of the scope of work. If charged to the award, these costs must be charged to the initial budget period of the award, unless otherwise specified by AMS.

A recipient may incur pre-award costs 90 calendar days before the award. Expenses more than 90 calendar days pre-award require prior approval. These costs and associated activities must be included in the recipient's project narrative and budget justification. All costs incurred before the award are at the potential recipient's risk. The incurrence of pre-award costs in anticipation of an award imposes no obligation on AMS to award funds for such costs. The request must include:

1. A brief description of the pre-award activities completed; and
2. An updated budget, using the same format for presenting the budget information that was used in the approved application, clearly indicating the associated dollar amount of award funds and/or the value of any matching resources expended during the pre-award period.

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

Prior approval is required for a change that involves subawarding, transferring, or contracting for 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 request must include:

1. A brief description of and justification for the change;
2. A brief description of the NFE's qualifications, and how their work will fulfill the project goals;
3. If a modification to the budget is required:
 - a. A description of the proposed modification,
 - b. The last approved budget, and
 - c. An updated budget for the affected cost categories using the same format as was used in the approved application with changes noted; and
4. If the third party was not identified in the original application, a description of the third party's qualifications, how its work will fulfill the project goals, and an itemized budget (if applicable) showing cost categories with appropriate justification.

9.7 Specific New Costs

Prior approval is required for any costs or expenditures which were not previously submitted in the approved budget. See [8.2 Allowable and Unallowable Costs and Activities](#) for more information. The request must include:

- A description of and justification for the cost including how it furthers the objectives of the project; and
- If applicable, a comparison between the most recent budget and the proposed budget as well as an updated budget narrative of the affected cost categories. Recipients must use the same format for presenting the budget information that was used in the approved application with changes noted.

9.8 Changes to Recipient Name or Address

If the recipient is contemplating changing the name or address of the recipient organization, the recipient is advised to contact its AMS representative for additional information on how this action may affect the award. This refers to a change to the recipient organization in block 1, "Recipient 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 recipient organization and the effective date of the change.

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

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

9.9 Cost Share or Match – Changes in the Amount or Source

The recipient must request prior, written approval to change the amount or source of the approved cost share or match or to change the amount of approved cost sharing or match provided by a project partner or by a subrecipient. The request must include:

1. A justification for the change;
2. Cash Commitment per year (if applicable) and Total Cash Match
3. In-kind Contribution per year (if applicable) and Total In-kind Match. Break down items into categories as applicable:
 - a. Salaries (employee name, title, duties, pay rate/hr., amount matched per year)
 - b. Items/Activities (fair market value per unit, how value determined (provide documentation), and amount matched per year)
4. A description of how the required match will be met including the source of the match, the amount of the match to be provided, and the composition of the match. The recipient must use the same format for presenting the match verification that was used in the approved application; and
5. A description of the change that includes a comparison between the latest budget and the proposed budget as well as an updated budget narrative of the affected cost categories to demonstrate that the overall required match will be met. The recipient must use the same form/format for presenting the budget information that was used in the approved application.

The recipient may use the [Suggested Match Verification Template Letter](#) as a starting point for developing its change request. Please add any additional information requested above to the letter.

10.0 PERFORMANCE AND FINANCIAL REPORTS

AMS requires the submission of interim and final reports to demonstrate the progress made toward the completion of project goals, objectives, and outcomes, as well as the grant agreement's overall financial status. Performance reports must be formatted and submitted using the approved guidance and AMS reporting systems.

Recipients 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/grants. Click on the applicable grant program website, and then 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 subrecipient, it is the recipient AOR's responsibility to review and approve the report before forwarding it to AMS.

10.1 Interim Performance and Financial Reports

The Interim Performance Report and SF-425 Federal Financial Report are due annually, or unless specified otherwise by Program-Specific Terms and Conditions of Award, or as a specific term and condition to a specific award, no later than 90 calendar days after each annual performance reporting period (block 26 of the Notice of Award) end date.

If the recipient completes the grant early, they may submit a Final Performance Report instead of an Interim Performance Report.

10.2 Final Performance and Financial Reports

The Final Performance Report and SF-425 Federal Financial Report must be submitted no later than 120 calendar days after the performance period end date (block 26 of the Notice of Award). A subrecipient must submit to the recipient no later than 90 calendar days after the period of performance end date.

10.3 Review of Performance and Financial Reports

AMS will review performance and financial reports to ensure completeness and progress toward meeting the project goals and measurable outcomes as well as compliance with Federal assistance regulations. AMS will notify the recipient project director if additional information is required or if no further information is needed. The recipient project director is responsible for adequately addressing all comments and questions before sending the revised report(s).

10.4 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 AMS 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 the 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, AMS encourages the recipient to minimize grammatical and spelling errors in submitted forms and materials. AMS will not edit the reports beyond ensuring that the content is appropriate.

10.5 Disparaging Language and Protected PII

Recipients are prohibited from using AMS 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 AMS must avoid the use of Protected PII, including the 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 recipient project director's name and e-mail address, as well as the organization name, physical address, and telephone number.

10.6 Overdue Reports

If a recipient cannot submit a report within the scheduled performance reporting dates, the recipient must inform AMS as soon as it is aware of problems, delays, or adverse conditions. Recipients should contact AMS no fewer than 30 calendar days before the due date. This disclosure must include a statement of the reason for the delay, a proposed alternative date, and any assistance needed to resolve the situation. AMS may extend the due date for performance reports based on a written request submitted by the recipient and signed by the Authorized Representative. 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.

11.0 ACKNOWLEDGEMENT OF SUPPORT

As required in [2 CFR § 415.2](#), grant recipients and subrecipients must acknowledge USDA AMS support in all publications written or published with USDA AMS grant 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. Recipients must also acknowledge USDA AMS 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 (web sites, audiovisuals, etc.), that are substantially based upon or developed under an AMS award:

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

Prime recipients publishing subaward opportunities (such as requests for applications) and subaward announcements must include acknowledgment that the funding is from the United States Department of Agriculture, Agricultural Marketing Service. For such announcements, prime recipients must also use the USDA logo. Subaward recipients and recipients conducting projects directly (not by making subawards), must include the above acknowledgment. They are encouraged to use the USDA logo in their financial acknowledgment. Any other logo use requires approval in writing from AMS prior to finalizing documents for publication or printing. When using the USDA logo, please use the <https://www.usda.gov/style-guide/logo> provided by USDA AMS.

The recipient is 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 AMS in a substantial way.

AMS grant recipients are asked to coordinate all public announcements of awards and subawards, when possible, with AMS and its Public Affairs Office. Simultaneous announcements by AMS and the grant recipient are frequently preferred.

12.0 PROPERTY MANAGEMENT

The title to real property, intangible property, equipment, and supplies acquired or improved by the recipient under the award will vest upon acquisition in the recipient. Recipients must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with Federal funds.

Recipients are expected to manage equipment whether acquired in whole or in part under the Federal award, until disposition takes place, by maintaining property records that include a description of the property, a serial number or another identification number, the source of funding for the property (including the FAIN), who holds the title, the acquisition date, and cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use, and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property. This is in addition to the other requirements of use, management, and disposition of real property, intangible property, equipment, and supplies acquired or improved under a grant in accordance with [2 CFR §§200.311, 200.313, 200.314](#), and [200.315](#).

12.1 Disposition of Real Property, Intangible Property, Equipment, and Supplies

When **real property** is no longer needed for the originally authorized purpose, the recipient must obtain disposition instructions from AMS.

The specific requirements governing the development, reporting, and disposition of rights of **intangible property** can be found in [2 CFR § 200.315](#).

When original or replacement **equipment** acquired under a Federal award is no longer needed for the original project or program or for other activities currently or previously supported by a Federal awarding agency, the recipient must request disposition instructions from AMS and may be made as follows:

1. Items of **equipment** with a current per unit fair market value of \$5,000 or less may be retained, sold, or otherwise disposed of with no further responsibility to AMS.
2. Items of **equipment** with a current per unit fair market value above \$5,000 may be retained by the recipient or sold and AMS compensated for its share.

If there is a residual inventory of unused **supplies** exceeding \$5,000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other Federal award, the recipient must retain the supplies for use on other activities or sell them, but must, in either case, compensate AMS for its share.

In any of these cases, recipients acting on their own behalf or as the pass-through entity must submit to AMS via email either 1) an SF-428 C Tangible Personal Property Report Disposition Request/Report during the period of performance or 2) an SF-428 B Tangible Personal Property Final (Award Closeout) Report at closeout of the Federal award to report or request disposition instructions. A sample Disposition Request/Report can be found at www.ams.usda.gov/grants. Click on the applicable grant program website, and then click on "How to Administer the Award" in the left menu bar. AMS will review the request and provide disposition instructions for the real property, equipment, and/or supplies. The disposition instructions will notify the recipient that AMS is entitled to an amount calculated as follows:

AMS Amount = Current Market value or proceeds from the sale of the equipment/supplies X Percentage of AMS participation in the cost of the original purchase

If the equipment and/or supplies are sold, the recipient is permitted to deduct and retain from the Federal share \$500 or 10 percent of the proceeds, whichever is less, for its selling and handling expenses.

13.0 CLOSEOUT

AMS 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 recipient, as provided in [2 CFR § 200.344](#). If the recipient fails to complete the requirements, AMS will proceed to close out the Federal award with the information available. When an award is closed out, terminated, or partially terminated, the recipient is responsible for complying with the requirements in [2 CFR § 200.345](#).

The recipient must submit all project reporting information within 120 calendar days of the end of the award's period of performance. The subrecipient must submit project reporting information to the pass-through entity within 90 calendar days of the end of the award's period of performance.

13.1 Closeout Checklist

The following documents must be submitted to and approved by AMS to close out a Federal award:

1. Final Performance Report Template (see [Section 10.2](#)) and any project deliverables (e.g., photos, brochures, other print materials from the project);
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
6. Audit report, if applicable (see [Section 2.1](#))

Requirements for Reapplication

Upon receiving and accepting all closeout documents, AMS will issue a closeout letter. If the recipient fails to complete the requirements within the specified timeframe, AMS will proceed to administratively close out the Federal award with the information available. Failure to submit all closeout reports within one year of the period of performance end date will result in AMS reporting the recipient's material failure to comply with these award terms and conditions to Federal Awardee Performance and Integrity Information System ([FAPIIS](#)) and may result in exclusion from future AMS grant consideration.

13.2 Unused and Returned Funds

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

Return the funds payable by check to the "Agricultural Marketing Service." The use of express mail or courier services is strongly encouraged to avoid delays.

Send payments to:

[Grant Program Name]
Attn: [Grant Program Name] Team Lead
USDA, Agricultural Marketing Service
Transportation and Marketing Program
1400 Independence Avenue, SW
Room 1510-South Building, Stop 0264
Washington, DC 20250-0264

14.0 RECORD RETENTION

The recipient must retain all records relating to the grant for three years after the final SF-425 is received and approved by AMS 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 recipient should, whenever practicable, collect, transmit, and store award-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.

15.0 ACCESS TO RECORDS

As described in [2 CFR § 200.337](#), AMS, 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 recipients and subrecipients which are pertinent to the Federal award, to make audits, examinations, excerpts, and transcripts. The right includes timely and reasonable access to the recipient's and subrecipient's personnel for interview and discussion related to such documents.

16.0 REMEDIES FOR NONCOMPLIANCE

AMS may take one or more of the following remedies for a recipient'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, AMS may take other legally available remedies, including initiating suspension or debarment under [2 CFR § 180](#).

The recipient may be allowed to correct the deficiencies before AMS takes enforcement action; however, AMS 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 recipient to obtain technical or management assistance.

16.1 Disallow Costs

AMS may disallow (deny the use of funds) for all or part of the cost of the activity or action that is not in compliance.

16.2 Withdrawal of Authorized Personnel Approval

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

16.3 Withholding of Payments

AMS may temporarily withhold cash payments pending correction of the deficiency by the recipient, in accordance with [2 CFR § 200.339](#). This decision is discretionary on the part of AMS and not subject to appeal.

16.4 Withholding of Support

AMS may decide not to make an award within the current award cycle if a recipient 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.

16.5 Suspension or Termination

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

AMS and the recipient 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 recipient must contact the AMS representative should it decide to terminate all or part of its award. If the recipient decides to terminate a portion of a grant agreement, AMS 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, AMS will advise the recipient of the possibility of termination of the entire grant and allow the recipient to withdraw its request for partial termination. If the recipient does not withdraw its request for partial termination, AMS may initiate a procedure to terminate the entire grant, which may include reporting the situation to Federal Awardee Performance and Integrity Information System (FAPIIS).

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

16.6 Specific Conditions for High-Risk Recipients

AMS will evaluate the degree of risk associated with a given recipient and may impose additional award conditions per [2 CFR § 200.206\(b\)](#) on the recipient 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 described in [2 CFR § 200.208](#). AMS will promptly remove any specific conditions once the conditions that prompted them have been corrected and verified.

17.0 APPEALS RELATED TO NON-COMPLIANCE REMEDIES

The recipient may appeal an AMS decision to remedy non-compliance within 30 days after receiving the final decision 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. AMS will review the notification and respond within 30 calendar days.

AMS encourages all recipients 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. Recipients must obtain their own mediator.

18.0 SITE VISITS

AMS 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. AMS will make every effort to notify the grant recipient at least two weeks in advance of any trip to the AMS-funded project location. If AMS makes any official site visit on the premises of a recipient or a subrecipient(s), the recipient must provide, and must require its subrecipients 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.

19.0 LIMIT OF FEDERAL LIABILITY

The maximum obligation of AMS to a recipient is the amount indicated in the award. Nothing in these award terms and conditions or in the other requirements of the award requires AMS 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, AMS has a unilateral right to make the correction and to make an appropriate adjustment in the AMS share of the award to align with the Federal amount authorized.

For awards where it is anticipated that the period of performance will include multiple budget periods, all subsequent budget periods are subject to the availability of funds, program authority, satisfactory performance, and compliance with the terms and conditions of the Federal award.

20.0 FRAUD, WASTE, AND ABUSE

Anyone who witnesses or has knowledge of the existence (or apparent existence) of fraud, waste, or abuse related to AMS 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. Recipients can reach the OIG Hotline in the following ways:

Online: <http://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 recipient; submitting false financial reports and submitting false financial data in bids submitted to the recipient (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.

21.0 PROHIBITION OF CONFIDENTIALITY AGREEMENTS

For recipients with internal confidentiality agreements, the following apply:

- (a) The recipient may not require its 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.
- (b) The recipient must notify its employees, contractors, or subrecipients 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 recipient is not in compliance with this award provision, it:
 - (1) Will prohibit the recipient's use of funds under this award, per 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 recipient's material failure to comply with award terms and conditions.

22.0 PAPERWORK REDUCTION

According to the [Paperwork Reduction Act of 1995](#), as amended ([44 U.S.C. 3501-3520](#)), 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 2.22 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.

23.0 NONDISCRIMINATION STATEMENT

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

24.0 ADMINISTRATIVE AND NATIONAL POLICY REQUIREMENTS

By signing the award agreement, recipients agree to comply with the applicable Federal statutes and regulations as listed below and any other policy requirements that apply to USDA programs and awards. 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](#) – *Award Term for Trafficking in Persons*

[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 § 184](#) – *Buy America Preferences for Infrastructure Projects (see also “Buy America Preferences for Infrastructure Projects” below)*

[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*

[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](#) – 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 a recipient you must not discriminate against sub recipients on the basis of their religious character.

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

[EO 13933](#), Protecting American Monuments, Memorials, and Statues and Combating Recent Criminal Violence

[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

[DR 1020-006](#) – Public Access

[DR 1074-001](#) – Scientific Integrity

[DR 3465-001](#) – Geospatial Data

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.

[P.L. 117-58 §§ 70901-52](#)- Build America, Buy America Act

[P. L. 113-101](#) – Digital Accountability and Transparency Act of 2014 [P. L. 109-282](#) – Federal Financial Accountability and Transparency Act of 2006

Buy America Preferences for Infrastructure Projects

Recipients of AMS grants and cooperative agreements for infrastructure are subject to the requirements below. For-profit recipients and subrecipients supported by AMS grants and cooperative agreements are not subject to these requirements.

Buy America Preference. Recipients of an award of Federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for an infrastructure project unless: (1) All iron and steel used in the project are produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States; (2) All manufactured products used in the project are produced in the United States— this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard that meets or exceeds this standard has been established under applicable law or regulation for determining the minimum amount of domestic content of the manufactured product; and (3) All construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States. The construction material standards are listed below.

Incorporation into an infrastructure project. The Buy America Preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America Preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

Categorization of articles, materials, and supplies. An article, material, or supply should only be classified into one of the following categories: (i) Iron or steel products; (ii) 15 Manufactured products; (iii) Construction materials; or (iv) Section 70917(c) materials. An article, material, or supply should not be considered to fall into multiple categories. In some cases, an article, material, or supply may not fall under any of the categories listed in this paragraph. The classification of an article, material, or supply as falling into one of the categories listed in this paragraph must be made based on its status at the time it is brought to the work site for incorporation into an infrastructure project. In general, the work site is the location of the infrastructure project at which the iron, steel, manufactured products, and construction materials will be incorporated.

Application of the Buy America Preference by category. An article, material, or supply incorporated into an infrastructure project must meet the Buy America Preference for only the single category in which it is classified.

Determining the cost of components for manufactured products. In determining whether the cost of components for manufactured products is greater than 55 percent of the total cost of all components, use the following instructions: (a) For components purchased by the manufacturer, the acquisition cost, including transportation costs to the place of incorporation into the manufactured product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or (b) For components manufactured by the manufacturer, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (a), plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the manufactured product.

Construction material standards. The Buy America Preference applies to the following construction materials incorporated into infrastructure projects. Each construction material is followed by a standard for the material to be considered “produced in the United States.” Except as specifically provided, only a single standard should be applied to a single construction material. (1) Non-ferrous metals. All manufacturing processes, from initial smelting or melting through final shaping, coating, and assembly, occurred in the United States. (2) Plastic and polymer-based products. All manufacturing processes, from initial combination of constituent plastic or polymer-based inputs, or, where applicable, constituent composite materials, until the item is in its final form, occurred in the United States. (3) Glass. All manufacturing processes, from initial batching and melting of raw materials through

annealing, cooling, and cutting, occurred in the United States. (4) Fiber optic cable (including drop cable). All manufacturing processes, from the initial ribboning (if applicable), through buffering, fiber stranding and jacketing, occurred in the United States. All manufacturing processes also include the standards for glass and optical fiber, but not for non-ferrous metals, plastic and polymer-based products, or any others. 16 (5) Optical fiber. All manufacturing processes, from the initial preform fabrication stage through the completion of the draw, occurred in the United States. (6) Lumber. All manufacturing processes, from initial debarking through treatment and planning, occurred in the United States. (7) Drywall. All manufacturing processes, from initial blending of mined or synthetic gypsum plaster and additives through cutting and drying of sandwiched panels, occurred in the United States. (8) Engineered wood. All manufacturing processes from the initial combination of constituent materials until the wood product is in its final form, occurred in the United States.

Waivers

When necessary, recipients may apply for, and the agency may grant, a waiver from these requirements. The agency should notify the recipient for information on the process for requesting a waiver from these requirements. When the Federal agency has made a determination that one of the following exceptions applies, the awarding official may waive the application of the Buy America Preference in any case in which the agency determines that: (1) applying the Buy America Preference would be inconsistent with the public interest; (2) the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or (3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent. A request to waive the application of the Buy America Preference must be in writing. The agency will provide instructions on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Made in America Office. There may be instances where an award qualifies, in whole or in part, for an existing waiver described at <https://www.usda.gov/ocfo/federal-financial-assistance-policy/USDABuyAmericaWaiver>.

Definitions

See pages 18 and 19 of [M-24-02](#).