

**NATIONAL INSTITUTE OF FOOD AND AGRICULTURE  
U.S. DEPARTMENT OF AGRICULTURE**

**RESEARCH TERMS AND CONDITIONS  
AGENCY-SPECIFIC TERMS AND CONDITIONS  
EFFECTIVE November 12, 2020**

**Agency Home Page:** <https://www.nifa.usda.gov/>

**Managing a Grant (contains award-related information):**

<https://www.nifa.usda.gov/business/awards/awardterms.html>

**Awards Management Division (AMD) Contact Information:**

ATTENTION: Awards Management Division, Office of Grants and Financial Management

**U.S. Postal Mailing Address:**

National Institute of Food and Agriculture  
U.S. Department of Agriculture  
P.O. Box 419205, MS 10000  
Kansas City, MO 64141-6205

**Courier/Package Delivery Address:**

National Institute of Food and Agriculture  
United States Department of Agriculture  
2312 East Bannister Road, MS 10000  
Kansas City, MO 64141-3061  
Email: [awards@usda.gov](mailto:awards@usda.gov)

**ARTICLE 1. AWARDS COVERED BY THE RESEARCH TERMS AND CONDITIONS**

The Research Terms and Conditions will apply to all awards (grants, cooperative agreements, and special projects) for all research and research-related awards (i.e., research, education, and extension) to institutions of higher education, hospitals, other non-profit organizations, federal agencies and for-profit organizations funded by NIFA except: 1) Capacity Programs; 2) the 1890 Facilities Program; and 3) the Small Business Innovation Research Program; as well as 4) awards to individuals. Existing research, education, and extension awards will continue to utilize the terms and conditions as stated in the award until the award expires unless the award is amended on or after November 12, 2020.

**ARTICLE 2. PRIOR APPROVAL REQUIREMENTS NOT INCLUDED IN THE GENERAL TERMS & CONDITIONS (T&CS)**

**Subcontracts**

No more than 50 percent of the total dollars of this award may be subcontracted to another party(ies) without prior written approval of the Authorized Departmental Officer (ADO) except subcontracts to Federal agencies. **Any subcontract awarded to a Federal agency under this award must have prior written approval of the ADO.** To request ADO approval the following must be submitted as a portable document format (pdf) attachment to an email sent to [awards@usda.gov](mailto:awards@usda.gov):

- a justification for the proposed subcontractual arrangements,

- a performance statement,
- a detailed budget and narrative for the subcontract, and
- an Authorized Representative (AR) signed letter of commitment.

### **No-cost Extension of Time**

If a no-cost extension of time is approved in accordance with 2 CFR 200.308(e)(2), recipients must notify NIFA that they are exercising their authority to extend without funds the completion date of an award. Notifications must be submitted as a pdf attachment to an email sent to [awards@usda.gov](mailto:awards@usda.gov).

### **More than one no-cost extension or an extension of more than 12 months.**

Usually no more than one no-cost extension or an extension of more than 12 months is permitted and only when there are exceptional circumstances. The extension(s) **must be approved in writing by the ADO**. The awardee should prepare and submit **a written request (must be received no later than 60 days prior to the expiration date of the award)**.

The request must contain, at a minimum, the following information:

- a. The length of additional time required to complete project objectives and a justification for the extension (see last paragraph of this article);
- b. A summary of progress to date (a copy of the most recent REEport progress report is acceptable provided the information is current);
- c. An estimate of funds expected to remain unobligated on the scheduled expiration date;
- d. A projected timetable to complete the portion(s) of the project for which the extension is being requested; and
- e. Signature of the AR and the Project Director/Principal Investigator (PD/PI). Any request received by the agency that does not meet this requirement will be returned for the necessary signature(s).

**Requests for no-cost extensions of time after expiration date.** NIFA may consider and approve requests for no-cost extensions of time up to 120 days following the expiration of the award. These will be approved only for extenuating circumstances, as determined by NIFA. The awardee's AR must submit the requirements identified in a. through e. of this section as well as an "extenuating circumstance" justification and a description of the actions taken by the awardee to minimize these requests in the future. The fact that funds are expected to remain unobligated at the expiration of the award is not in itself sufficient justification to receive an extension of time unless otherwise authorized in the program legislation. Normally, no single extension may exceed 12 months and only in exceptional cases will more than one extension be considered. The award period (including any subsequent authorized extensions of time), must not exceed any applicable statutory limit as well as any expiring appropriation limitation (see Article 7.).

### **Extension to Submit a Final Federal Financial Report, Form SF-425**

To request ADO approval, requests must be submitted as a pdf attachment to an email sent to [awards@usda.gov](mailto:awards@usda.gov) following the guidance below:

**Request submitted PRIOR to the end of the 120-day period following the award expiration date.** The request should include a provisional report (showing unliquidated obligations), justification for not submitting a final by the initial due date, and the anticipated date for submission of a final report. Note that any extension of time is subject to expiring appropriations (see Article 7.) or other statutory or agency policy limitations (see Funding Period in this Article). Funds will remain available for drawdown during an approved extension of time.

**Request submitted FOLLOWING the end of the 120-day period following the award expiration date.**

Such requests will only be considered, on a case by case basis, in extenuating circumstances. This request should include a provisional report (showing unliquidated obligations) as well as an anticipated submission date for the final report, a justification for the late submission, and a justification for the extenuating circumstances. Note that any extension of time is subject to expiring appropriations (see Article 7.) or other statutory or agency policy limitations (see Funding Period in this Article).

**Salaries**

Salary rates of pay exceeding an Executive Level IV salary range (see Executive Schedule link at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2019/executive-senior-level>) requires prior NIFA approval. This rate does not include any fringe benefits, general and administrative (G&A), overhead, or other expenses. Requests for approval must include the salary rate of pay and a justification for the rate and be sent to the ADO to [awards@usda.gov](mailto:awards@usda.gov).

See [Research Terms and Conditions Appendix A Prior Approval Matrix](#), for further information regarding prior approvals.

**ARTICLE 3. UNALLOWABLE DIRECT CHARGES ASIDE FROM THOSE IN PART 200—  
UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT  
REQUIREMENTS FOR FEDERAL AWARDS**

**Fixed Equipment and Real Property**

No funds awarded under the authorities of Sec. 2(b), 2(c)(1)(A), and 2(c)(1)(B) of Pub. L. No. 89-106, as amended, may be used for the renovation or refurbishment of research spaces; the purchase or installation of fixed equipment in such spaces; or for the planning, repair, rehabilitation, acquisition, or construction of a building or facility.

**Indirect Costs and Tuition Remission**

Statutory language may limit or prohibit the amount of allowable indirect costs. If such language applies to this award, the limit is identified on the budget as appropriate. When indirect costs are limited, the indirect costs allowable will be the lesser of the following amounts: (1) the Federally approved negotiated indirect cost rate and base, or (2) the limit identified in the statutory language. **Note: Any limitation or prohibition of indirect costs on the awardee also applies to subcontracts under the funded awards.**

Section 1462(a) and (c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (NARETPA) limits indirect costs for the overall award to 30 percent of Total Federal Funds Awarded (TFFA) under a research, education, or extension grant. This restriction will be included in applicable Requests for Applications and Notices of Award.

As noted in Appendix A Prior Approval Matrix, the use of unrecovered indirect costs for cost sharing or matching purposes is subject to any applicable statutory language limiting or prohibiting indirect costs as well as 7 CFR 3430.

Indirect costs and tuition remission costs are unallowable if this award is issued under the authority of Sec. 2(c)(1)(B) of the Act of August 4, 1965, Pub. L. No. 89-106; Sec. 1472, Sec. 1473, Sec. 1475(d), and Sec. 1480 of the National Agricultural Research, Extension and Teaching Policy Act of 1977 (NARETPA), as amended, Pub. L. No. 95-113; and the Smith-Lever Act of May 8, 1914, as amended. This limitation also applies to subcontracts made under awards subject to any of these authorities.

### **Meals**

Business meals may not be charged as project costs when individuals decide to go to breakfast, lunch, or dinner together when no need exists for continuity of a meeting. Such activity is considered to be an entertainment cost. On the other hand, meals that are part of the costs of meetings and conferences, the primary purpose of which is the dissemination of technical information, are allowable as are costs of transportation, rental of facilities, speakers' fees, and other items incidental to such meetings or conferences. Note: Meals consumed while in official travel status do not fall in this category. They are considered to be per diem expenses and should be reimbursed in accordance with the organization's established travel policies subject to statutory limitations.

### **Equipment**

Expenditures for the acquisition or improvement of general and special purpose equipment is allowable, without prior agency approval, if the cost of the equipment is appropriately prorated among the activities to be benefitted.

### **Personal Injuries**

Grant funds cannot be used for compensation for injuries to persons or loss, theft, or damage to property during project activities.

## **ARTICLE 4. CONTACT INFORMATION FOR TECHNICAL MATTERS**

Questions regarding technical matters should be referred to: the programmatic contact person identified in Block 14 of the Award Face Sheet (Form NIFA-2009).

## **ARTICLE 5. CONTACT INFORMATION FOR ADMINISTRATIVE MATTERS**

Questions regarding administrative matters should be referred to: the administrative contact person identified in Block 14 of the Award Face Sheet (Form NIFA-2009).

## **ARTICLE 6. CONTACT INFORMATION FOR INTELLECTUAL PROPERTY MATTERS**

Questions regarding intellectual property matters (this does **not** include questions and issues regarding Interagency Edison) should be referred to:

**ATTENTION:** Planning, Accountability, and Reporting Staff

### **U.S. Postal Mailing Address:**

National Institute of Food and Agriculture  
United States Department of Agriculture  
P.O. Box 419205, MS 10000  
Kansas City, MO 64141-6205

### **Courier/Package Delivery Address:**

National Institute of Food and Agriculture, USDA  
United States Department of Agriculture  
2312 East Bannister Road, MS 10000  
Kansas City, MO 64141-3061

E-mail: [bayhdoile@usda.gov](mailto:bayhdoile@usda.gov)

Interagency Edison (iEdison) can be accessed at <https://www.iedison.gov/>. An overview of the iEdison invention reporting process, an iEdison tutorial, and extensive help text can be found as links on the iEdison home page. Requests for detailed instructions or other questions regarding Interagency Edison should be directed to:

Division of Extramural Inventions & Technology Resources (DEITR)  
National Institutes of Health (NIH)  
6705 Rockledge Drive, Suite 310, MSC 7980  
Bethesda, Maryland 20892-7980  
Telephone: (301) 435-1986; Facsimile: (301) 480-0272  
E-mail: [Edison@nih.gov](mailto:Edison@nih.gov)

## ARTICLE 7. OTHER REQUIREMENTS (NOT SPECIFIED ELSEWHERE)

### **Period of Performance**

“Period of Performance” has the meaning given in 2 CFR 200.1, with the additional clarification that the term includes any extension of the end date of the award, such as a no-cost extension authorized by 2 CFR 200.308, paragraph (e)(2). The period of performance is identified in Block 4. of the Award Face Sheet (Form NIFA-2009). Statutory language or agency policy may limit the maximum potential period of performance (including any awards transferred from another institution or organization). The period of performance will commence on the effective date cited in the award instrument. Any such limitation also applies to subcontracts made under awards subject to a period of performance limitation.

### **Expiring Appropriations**

Generally, the appropriated funds used to make grant awards expire five years after the fiscal year in which the grant is originally made. This means in the sixth year following a grant award, any award funds that have not been drawn down by August 25 of that year by the awardee are subject to be returned to the Department of the Treasury by September 30 of that year. To determine the appropriation year of award funds, see block 17. Funds Chargeable of the Award Face Sheet (Form NIFA-2009). This block contains a two-digit fiscal year followed by a financial data code (FDC).

Awards in the sixth year with Period of Performance end dates in the months of JUNE, JULY, and AUGUST do not have the full 90 days after the Period of Performance closes to draw down (does not apply to AFRI awards or no-year/X-year appropriation funded programs). These awards must make final drawdown for expenditures no later than August 25 of the sixth year in order for NIFA to prepare its financial records before the funds Expire on September 30. After August 25, the ASAP account will be closed and the funds will be processed to revert back to the Treasury, resulting in lost funds for grantee.

In the following example, “17-823-33610,” the first two numbers “17” represent the fiscal year “2017.” In this example it means that the funds must be drawn down by August 25 of the year 2022.

<b>FY17 single-year annual appropriation</b> First year	<b>FY18</b> Second year	<b>FY19</b> Third year	<b>FY20</b> Fourth year	<b>FY21</b> Fifth year	<b>FY22</b> Sixth year
In this example, the grant approval date is August 31, 2017, and the Grant Year 1 Period of Performance begins on that date.	Grant Year 2 Period of Performance begins August 31, 2018.	Grant Year 3 Period of Performance begins August 31, 2019.	Grant Year 4 Period of Performance begins August 31, 2020.	Grant Year 5 Period of Performance begins August 31, 2021.	FY 17 single-year appropriation will expire on September 30, 2022. To meet this deadline, drawdowns must occur before August 25, 2022.

**NIFA awards supported with funds from other Federal agencies (reimbursable funds)** Unless an earlier date applies, NIFA requires all draws and reimbursements for awards supported with reimbursable funds (from other Federal agencies) **must** be completed **no later than** June 30th of the fiscal year in which the period of availability for obligation ends to allow for the proper billing, collection, and close-out of the associated interagency agreement before the appropriations expire. For awards in their fifth year, June 30 is the last date on which draws and reimbursements can be made, even if the award is in its 90 day liquidation period.

**Appropriations cannot be restored after expiration of the account.** If you have questions about whether an applicable appropriation will expire after 5 years, contact the Administrative Point of Contact identified in block 14 of the Award Face Sheet, Form NIFA-2009.

### **Fraud, Waste, and Abuse**

At a minimum, organizations must prepare and make available information about fraud, waste, and abuse to individuals participating in the SBIR project. Fraud includes any false representation about a material fact or any intentional deception designed to deprive the United States unlawfully of something of value or to secure from the United States a benefit, privilege, allowance, or consideration to which an individual or business is not entitled. Waste includes extravagant, careless, or needless expenditure of Government funds, or the consumption of Government property, that results from deficient practices, systems, controls, or decisions. Abuse includes any intentional or improper use of Government resources, such as misuse of rank, position, or authority or resources. The information should clearly inform individuals that they are to report any suspicions of fraud, waste, or abuse to the Office of Inspector General (OIG) pursuant to the provisions of the Whistleblower Protection Act of 1989 and the Inspector General Act of 1978.

Contact information for the OIG is available on their website at <https://www.usda.gov/oig/hotline.htm>.

The OIG may be contacted via the telephone at:

Hotline: (800) 424-9121

Hotline Local: (202) 690-1622

Hotline TDD: (202) 690-1202

Examples of fraud, waste, and abuse include, but are not limited to:

- (i) misrepresentations or material, factual omissions to obtain, or otherwise receive funding under the award;
- (ii) misrepresentations of the use of funds expended, work done, results achieved, or compliance with program requirements under the award;
- (iii) misuse or conversion of award funds, including any use of award funds while not in full compliance with Program requirements, or failure to pay taxes due on misused or converted award funds;
- (iv) fabrication, falsification, or plagiarism in applying for, carrying out, or reporting results from an award;
- (v) failure to comply with applicable federal costs principles governing an award;
- (vi) extravagant, careless, or needless spending;
- (vii) self-dealing, such as making a sub-award to an entity in which the PI has a financial interest;
- (viii) acceptance by agency personnel of bribes or gifts in exchange for grant or contract awards or other conflicts of interest that prevents the Government from getting the best value; and
- (ix) lack of monitoring, or follow-up if questions arise, by agency personnel to ensure that awardee meets all required eligibility requirements, provides all required certifications, performs in accordance with the terms and conditions of the award, and performs all work proposed in the application.



### **Industrial Hemp**

By accepting the award, the awardee agrees that if the project involves industrial hemp, the organization will comply with all terms and conditions set by the applicant's State agency regarding industrial hemp growth and cultivation. For this purpose, the term "industrial hemp" includes the plant *Cannabis sativa L.* and any part or derivative of such plant, including seeds of such plant, whether growing or not, that is used exclusively for industrial purposes (fiber and seed) with a tetrahydrocannabinols concentration of not more than 0.3 percent on a dry weight basis. The term "tetrahydrocannabinols" includes all isomers, acids, salts, and salts of isomers of tetrahydrocannabinols. If industrial hemp activities are conducted under the award, NIFA, in accordance with 2 CFR 200.337, has the right of access to any documents, papers, or other records of the non-Federal entity which are pertinent to the Federal award, in order to verify compliance with the terms and conditions set by the applicant's State agency. For further information see <https://nifa.usda.gov/industrial-hemp>.

### **Life Sciences Dual Use Research of Concern (DURC)**

For all NIFA-funded research that potentially falls within the scope of the US Government Policy for Institutional Oversight of Life Sciences Dual Use Research of Concern (<https://www.phe.gov/s3/dualuse/Pages/default.aspx>) as published in September 2014, grantees are responsible for monitoring the research progress and for implementation of all appropriate biosafety and biosecurity risk mitigation measures including compliance with all applicable laws and regulations related to that implementation, including the Policy specified above. (See also <https://osp.od.nih.gov/biotechnology/dual-use-research-of-concern/> for Frequently Asked Questions, case studies, and other educational materials on DURC.)

### **Genetic Resources from Outside of U.S.**

If this project will use plant or animal genetic resources from outside the United States, the PD is advised to seek information regarding any prior informed consent and any terms and conditions regarding access and benefit-sharing required by the appropriate host country authorities. For further information, see the Access and Benefit-Sharing Clearing-House (<https://absch.cbd.int/>) and the International Treaty on Plant Genetic Resources for Food and Agriculture (<http://www.fao.org/plant-treaty/countries/en/>) websites. Researchers also should check for information directly from countries where they intend to obtain genetic resources. Researchers must also obtain permits and follow USDA/APHIS importation regulations ([http://www.aphis.usda.gov/import\\_export/index.shtml](http://www.aphis.usda.gov/import_export/index.shtml)). Contact the Plant Exchange Office, USDA/ARS, (<https://www.ars.usda.gov/research/project/?accnNo=434391>) or the USDA/ARS National Animal Germplasm Program (<https://www.ars.usda.gov/research/project/?accnNo=433404>), as appropriate, for further guidance on archiving the collections in the USDA/ARS's genebanks.

### **Responsible and Ethical Conduct of Research**

In accordance with sections 2, 3, and 8 of 2 CFR Part 422, institutions that conduct USDA-funded extramural research must foster an atmosphere conducive to research integrity, bear primary responsibility for prevention and detection of research misconduct, and maintain and effectively communicate and train their staff regarding policies and procedures. By accepting a NIFA award the grantee assures that program directors, faculty, undergraduate students, graduate students, postdoctoral researchers, and any staff participating in the research project receive appropriate training and oversight in the responsible and ethical conduct of research and that documentation of such training will be maintained. Grantees are advised that the documentation of the training are subject to NIFA review upon request.

Note that the training referred to herein may be either on-campus or off-campus training. The general content of the ethics training, at a minimum, will emphasize three key areas of research ethics: authorship and plagiarism, data and research integration and reporting misconduct. Each institution will be

responsible for developing its own training system, as schools will need flexibility to develop training tailored to their specific student needs. Grantees should consider the Collaborative Institutional Training Initiative (CITI) program for RCR (<https://www.citiprogram.org/rcrpage.asp>). Typically this RCR education addresses the topics of: Data Acquisition and Management - collection, accuracy, security, access; Authorship and Publication; Peer Review; Mentor/Trainee Responsibilities; Collaboration; Conflict of Interest; Research Misconduct; Human Subject Research; and Use of Animals in Research.

#### **Prohibition on certain telecommunications and video surveillance services or equipment**

The grantee (including subrecipients) is responsible for compliance with the prohibition on certain telecommunications and video surveillance services or equipment identified in [2 CFR 200.216](#). See [Public Law 115-232](#), Section 889 for additional information.

In accordance with [2 CFR 200.216](#), the grantee (including subrecipients) is prohibited from obligating or expending loan or grant funds for covered telecommunications equipment or services to:

1. procure or obtain, extend or renew a contract to procure or obtain;
2. enter into a contract (or extend or renew a contract) to procure; or
3. obtain the equipment, services or systems.

#### **APPLICABLE REGULATIONS AND NATIONAL POLICY REQUIREMENTS**

As a condition of this grant award, you assure that you will be in compliance and will comply with applicable statutory and national policy requirements, including those specified in [2 CFR 200.300](#) and [Appendix II of 2 CFR 200](#), which hereby are incorporated in this grant award by reference, and such other provisions as are specified herein.

***Table 1: National Policy Requirements***

<b>Regulation/Statute</b>	<b>Title</b>
<a href="#">2 CFR Part 25</a>	Universal Identifier and System for Award Management Also see Sections 13 and 14 of these award terms.
<a href="#">2 CFR Part 170</a>	Reporting Subaward and Executive Compensation Information Also see Article 12 of these award terms.
<a href="#">2 CFR Part 175</a>	Award Term for Trafficking in Persons
<a href="#">2 CFR Part 180</a>	OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)
<a href="#">2 CFR Part 182</a>	Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)
<a href="#">2 CFR Part 200</a>	Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards



<b>Regulation/Statute</b>	<b>Title</b>
<a href="#"><u>2 CFR Part 400</u></a>	Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
<a href="#"><u>2 CFR Part 400.2</u></a>	Conflict of Interest
<a href="#"><u>2 CFR Part 415</u></a>	General Program Administrative Regulations
<a href="#"><u>2 CFR Part 416</u></a>	General Program Administrative Regulations for Grants and Cooperative Agreements to State and Local Governments
<a href="#"><u>2 CFR Part 417</u></a>	Nonprocurement Debarment and Suspension
<a href="#"><u>2 CFR Part 418</u></a>	New Restrictions on Lobbying
<a href="#"><u>2 CFR Part 421</u></a>	Requirements for Drug-Free Workplace (Financial Assistance)
<a href="#"><u>2 CFR Part 422</u></a>	<p>Research Institutions Conducting USDA Funded Extramural Research; Research Misconduct</p> <p>All research awards issued by NIFA are subject to 2 CFR 422; USDA's implementation of the Federal Policy on Research Misconduct published at 65 FR 76260. In accordance with sections 2, 3, and 8 of 2 CFR Part 422, institutions that conduct extramural research funded by USDA must foster an atmosphere conducive to research integrity, bear primary responsibility for prevention and detection of research misconduct and are to maintain and effectively communicate and train their staff regarding policies and procedures. The AOR assures, through acceptance of the award that the institution will comply with the above requirements. Grant recipients must, upon request, make available to NIFA the policies and procedures as well as documentation to support the conduct of the training.</p> <p>To report allegations of research misconduct see <a href="https://nifa.usda.gov/research-misconduct">https://nifa.usda.gov/research-misconduct</a></p>
<a href="#"><u>7 CFR Part 1, Subpart A</u></a>	Official Records
<a href="#"><u>7 CFR Part 1b</u></a>	National Environmental Policy Act
<a href="#"><u>7 CFR Part 3</u></a>	Debt Management

Regulation/Statute	Title
<a href="#"><u>7 CFR Part 15, Subpart A</u></a>	Nondiscrimination in Federally-Assisted Programs of the Department of Agriculture – Effectuation of Title VI of the Civil Rights Act of 1964
<a href="#"><u>7 CFR Part 3100</u></a>	Cultural and Environmental Quality
<a href="#"><u>7 CFR Part 3430</u></a>	Competitive and Noncompetitive Non-Formula Federal Assistance Programs – General Award Administrative Provisions
<a href="#"><u>8 U.S.C. 1324a.</u></a>	Unlawful employment of aliens
<a href="#"><u>29 U.S.C. 794</u></a>	Nondiscrimination under Federal grants and programs
<a href="#"><u>41 U.S.C. 6306</u></a>	Interest of Member of Congress
<a href="#"><u>41 U.S.C. 4712</u></a>	Enhancement of contractor protection from reprisal for disclosure of certain information
<a href="#"><u>45 CFR 75.521, Appendix IX to Part 75</u></a>	Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals
<a href="#"><u>48 CFR Subpart 31.2</u></a>	Principles for determining costs with profitmaking firms and those nonprofit organizations that are specifically excluded from the provisions of 2 CFR part 200
<a href="#"><u>Executive Order (EO) 13513</u></a>	“Federal Leadership on Reducing Text Messaging While Driving,”
<a href="#"><u>Executive Order 13798; 7 CFR Part 16.3</u></a>	“Promoting Free Speech and Religious Liberty”
<b>Other laws, agency-specific regulations applicable to USDA agencies and staff offices</b>	<p>USDA agencies and staff offices must comply with provisions found in the Consolidated Appropriations Act, 2016, Pub. L. 114-113, Division E, Title VII, General Provisions Government-wide, Sections 743, 744, 745, 746 respectively <i>or any successor provisions of law.</i></p> <p><b><u>Prohibition Against Certain Internal Confidentiality Agreements</u></b></p> <p>(a) You may not require your employees, contractors, or subrecipients seeking to report fraud, waste, or abuse to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting them from lawfully reporting that waste, fraud, or abuse to a</p>

Regulation/Statute	Title
	<p>designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.</p> <p>(b) You must notify your 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.</p> <p>(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.</p> <p>(d) If NIFA determines that you are not in compliance with this award provision, NIFA:</p> <ol style="list-style-type: none"> <li>1) Will prohibit your use of funds under this award, in accordance with sections 743 and 744 of Division E of the Consolidated Appropriations Act, 2016, (Pub. L. 114-113) or any successor provision of law;</li> <li>2) May pursue other remedies available for your material failure to comply with award terms and conditions.</li> </ol> <p><b><u>Assurance Regarding Felony Conviction or Tax Delinquent Status for Corporate Applicants</u></b></p> <p>This award is subject to the provisions contained in the Consolidated Appropriations Act, 2016, Pub. L. 114-113, Division E, Title VII, sections 745 and 746, as amended and/or subsequently enacted for U.S. Department of Agriculture (USDA) agencies and offices regarding corporate felony convictions and corporate federal tax delinquencies.</p> <p>Accordingly, by accepting this award the corporation recipient acknowledges:</p> <ol style="list-style-type: none"> <li>(1) that it does not have a Federal tax delinquency, meaning that it is not subject to any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, <b>and</b></li> <li>(2) that it has not been convicted of a felony criminal violation under any Federal law within 24 months preceding the award, unless a suspending and debaring official of the USDA has considered suspension or debarment of the recipient corporation based on these convictions and/or tax delinquencies and determined that suspension or debarment is not necessary to protect the interests of the Government. If the recipient fails to comply with these provisions, the agency will annul this agreement and may recover any funds the recipient has expended in violation of the above cited statutory provisions.</li> </ol>
<b>National Policy Requirements</b>	Also see <a href="#">Research Terms and Conditions Appendix C, National Policy Requirements.</a>
<b><u>2 CFR 200.216</u></b>	Prohibition on certain telecommunications and video surveillance services or equipment

Regulation/Statute	Title
<a href="#">2 CFR 200.340</a>	Termination

## ARTICLE 8. REVISED BUDGET REQUIREMENTS

When it is necessary to request ADO approval of a budget revision (see [Prior Approval Matrix](#)), the revised budget must be submitted as a pdf attachment to an email to [awards@usda.gov](mailto:awards@usda.gov). The request must clearly articulate the changes (i.e., it need not be submitted on the budget form that was used in the application process; the revisions need only be clearly identified) and reflect PD/PI and AR concurrence (i.e., must contain the signature of the PD/PI and AR).

## ARTICLE 9. TECHNICAL AND OTHER REPORTING REQUIREMENTS

**Patents and Inventions including Plant Variety Protection:** The central point of contact within NIFA for questions and issues pertaining to patents and inventions including plant variety protections (PVP) (this does **not** include questions and issues regarding Interagency Edison) is:

**ATTENTION:** Planning, Accountability, and Reporting Staff

### **U.S. Postal Mailing Address:**

National Institute of Food and Agriculture  
United States Department of Agriculture  
P.O. Box 419205, MS 10000  
Kansas City, MO 64141-6205

### **Courier/Package Delivery Address:**

National Institute of Food and Agriculture, USDA  
United States Department of Agriculture  
2312 East Bannister Road, MS 10000  
Kansas City, MO 64141-3061

E-mail: [bayhdole@usda.gov](mailto:bayhdole@usda.gov)

## **Invention Disclosure**

**Invention Disclosure and Related Information Requirements.** 37 CFR 401.14(c)(1) requires the disclosure of each subject invention to the Federal Agency within two months after the inventor discloses it in writing to contractor personnel responsible for such matters. Under 35 U.S.C. 201(d), an invention means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the US Code, or any novel variety of plant which is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.), pursuant to 37 CFR 401.2(c). Invention disclosure statements pursuant to 37 CFR 401.14(c) must be made by creating an invention record using Interagency Edison. All supporting documentation must also be submitted electronically using Interagency Edison (37 CFR 401.16(a),(b), and (c)).

**Electronic Submission Via Interagency Edison Web Interface:** Interagency Edison (iEdison) can be accessed at <http://www.iEdison.gov>. An overview of the iEdison invention reporting process, an iEdison

tutorial, and extensive help text can be found as links on the iEdison home page. Requests for detailed instructions or other questions regarding Interagency Edison should be directed to:

Division of Extramural Inventions & Technology Resources (DEITR)  
National Institutes of Health (NIH)  
6705 Rockledge Drive, Suite 310, MSC 7980  
Bethesda, Maryland 20892-7980  
Telephone: (301) 435-1986  
Facsimile: (301) 480-0272  
E-mail: [Edison@nih.gov](mailto:Edison@nih.gov)

The report of the invention and a copy of the signed invention disclosure must be reported electronically through the Interagency Edison Web interface. To submit the signed disclosure electronically requires that it be rendered as a PDF or TIFF file. The signed disclosure should contain a brief description of the original invention including the Title, Inventor(s) Name(s), and source of Federal support used (e.g., Agency Award Number). After the report and disclosure are received in the iEdison system, NIFA will have access to a copy of the disclosure document.

### **Other Invention, Patent, and Utilization Reporting Information**

**Electronic Submission Via Interagency Edison Web Interface:** The Interagency Edison is to be used to exact any changes to the disposition of the invention, including title election or non-election, assignment of rights to third parties, patent application(s) or PVP(s), and patents or PVP(s) received.

As with the invention disclosure, iEdison also supports electronic submission of documents required for several other aspects of the Bayh-Dole reporting process, as detailed below.

Once a **patent** or PVP is applied for and an application serial number is available, an executed confirmatory license to the Government must be submitted. Such a license must also be submitted in instances where the invention has been licensed but not patented (as is the case of biological materials). For this purpose, iEdison provides a confirmatory license template (<https://s-edison.info.nih.gov/iEdison/license.jsp>) that can be submitted via facsimile.

Commensurate with patent or PVP application or issued patent or PVP certificate, the awardee organization must submit a copy of the portion of the patent or PVP application that contains the “Government Support Clause,” offering proof of formal acknowledgment of Government support of the underlying invention. For PVP applications, the government support clause must be inserted in Exhibit E, block 11 of the application.

Requests for assignment of rights to third parties (e.g., the inventor) must include certification by the inventor. The certification process is defined and can be carried out as described under NIFA’s Intellectual Property webpage (<https://nifa.usda.gov/intellectual-property-reporting>). The signed certification must be emailed to [bayhdole@usda.gov](mailto:bayhdole@usda.gov).

Requests for waiver of the domestic manufacturing requirement must be emailed to [bayhdole@usda.gov](mailto:bayhdole@usda.gov).

**Title Election and Patent or PVP Submission:** Within two years of an invention disclosure, a recipient must resolve the title to the invention, that is, either elect to retain invention rights or waive rights. Should the recipient decide to elect title, recipient must file a non-provisional patent or PVP application, or notify this agency of its intentions pursuant to 37 CFR 401.14(c)(2) and (3). If the recipient fails to either 1) notify the Government of its intentions or 2) exercise its option to file for a patent within the specified

time periods, then the Government may exercise its right of ownership pursuant to 37 CFR 401.14(d)(1) and (2).

The Government is not entitled to publicly disclose or publish a subject invention except according to the regulations, which includes but is not limited to the following circumstances:

- (1) The award recipient publicly discloses or gives permission for publication; or
- (2) The award recipient does not elect to file for a U.S. patent or PVP on such results, pursuant to 37 CFR 401.14(c)(2) and (3); or
- (3) After the award recipient files for a U.S. patent or PVP pursuant to 37 CFR 401.14(c)(3).

"Publications" include publicly accessible databases such as Genbank; and subject invention include genome maps and sequences.

### **Grant Reporting**

All grant reporting must be completed using the Research, Education, and Extension project online reporting tool (REEport). Initial reporting (item a. below) for this grant is to be submitted through the REEport system. Annual progress and final reporting (items b. and c. below) on this grant will also be submitted through the REEport system. Information on REEport can be found on NIFA's web site at <https://nifa.usda.gov/tool/reeport> and the REEport software can be found at <https://portal.nifa.usda.gov/>. Please refer to 2 CFR 200.344 for closeout procedures and potential consequences for failure to report in a timely manner.

**Review the following guidance closely regarding reporting requirements.**

### **Initial Documentation in the REEport Database**

#### **Research, Education, and Extension project online reporting tool (REEport)**

All projects **must** be documented in REEport. The NIFA contact for all REEport documentation is:

**ATTENTION:** Research, Education, and Extension project online reporting (REEport)

#### **U.S. Postal Mailing Address:**

National Institute of Food and Agriculture  
U.S. Department of Agriculture  
P.O. Box 419205, MS 10000  
Kansas City, MO 64141-6205

#### **Courier/Package Delivery Address:**

National Institute of Food and Agriculture  
United States Department of Agriculture  
2312 East Bannister Road, MS 10000  
Kansas City, MO 64141-3061

E-mail: [electronic@usda.gov](mailto:electronic@usda.gov)



**NIFA WILL NOT RELEASE FUNDS FOR THIS PROJECT UNTIL THE REQUIRED INFORMATION HAS BEEN RECEIVED ELECTRONICALLY BY REEport.**

Information collected in the REEport Project Initiation is required upon project initiation for all **NEW** awards in REEport. This information is requested by the appropriate NIFA Program Manager.

Awardees are requested to submit data electronically. To submit forms electronically, the REEport web site can be accessed through the NIFA Reporting Portal at: <https://portal.nifa.usda.gov/>.

Technical questions regarding the online completion of the reports should be directed to NIFA at [electronic@usda.gov](mailto:electronic@usda.gov).

Questions regarding report content should be directed to the programmatic contact person identified in Block 14 of the Award Face Sheet (Form NIFA-2009).

**Annual Progress Reports.**

All projects **must** report annually into REEport. Annual progress reports should be submitted to REEport. The NIFA contact for REEport is identified in a. above.

The annual Progress Report follows the format of the government-wide Research Performance Progress Report (RPPR) and includes a summary of participants, target audiences, products (outputs), accomplishments (outcomes/impacts), and changes/problems.

Each year the award is active, the **REEport** system will notify the awardee or designated contact electronically of upcoming reporting requirements. An annual Progress Report must be completed in accordance with instructions accompanying the request and/or those provided on the **REEport** data entry website referenced in item d. Reports must be submitted electronically utilizing access information (e.g., login information) provided in the **REEport** request for a progress report.

An annual Progress Report is due 90 calendar days after the award's anniversary date (i.e., one year following the month and day of which the project period begins and each year thereafter up until a final report is required). An annual Progress Report covers the most recent one-year period. **The following information, when applicable, must be included in the Changes/Problems section of the annual Progress Report.**

- (1) A comparison of actual accomplishments with the goals established for the reporting period (where the output of the project can be expressed readily in numbers, a computation of the cost per unit of output should be submitted if the information is considered useful)
- (2) The reasons for slippage if established goals were not met; and
- (3) Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or unexpectedly high unit costs.

***Failure to submit an annual Progress Report within 90 calendar days after the award's anniversary date may result in grant funds being withheld until the report has been submitted as specified.***

**Final Report**

In the month that an award is due to expire, a request notification for the Final Report will be sent electronically to the award contact designated in REEport. The Final Report is required within 120

calendar days after the expiration or termination of the award. The 120 calendar days is in compliance with 2 CFR 200.344(a).

The Final Report covers the entire period of performance of the award and must describe progress made during the entire timeframe of the project instead of covering accomplishments made only during the final reporting segment of the project. In addition to supplying the information required under item b. of this article, the final report must include the following when applicable:

Identify equipment purchased with any Federal funds under the award and indicate subsequent use of such equipment.

***Failure to submit an acceptable Final Report within 120 calendar days after the award's anniversary date may result in funds being withheld for other active NIFA grants for which the PD(s) under this award are also named as well as prevent the award of future NIFA grants until the required report has been received in the REEport system and approved by NIFA.***

### **Use of Reported Information**

Please note the vital importance of preparing well written progress and technical reports. Information reported into REEport is used extensively by NIFA for describing the work NIFA funds, in planning and defending its budget, assessing its programs, and communicating project results. This depends on quality reports written in lay terms. Reported information is also used by State scientists and administrators and is available to the public on the worldwide web. The reported project information is available via the NIFA Data Gateway web site at: <https://nifa.usda.gov/data>.

### **Publication of findings and access of data**

**This section describes the policies for publication of major findings, and release and access of data and metadata from NIFA-funded research, education, extension and integrated research, education and/or extension projects. In addition, release of animal or plant germplasms are described in detail.**

All investigators funded by NIFA must publish their major findings and make data resulting from research, education, and/or extension projects available within a reasonable time frame as laid out in their Data Management Plan (DMP) with appropriate recognition of all contributors. Any restrictions to data access necessary to safeguard privacy, intellectual property, business interests, or other limitations such as resource constraints must be followed as outlined in the DMP of the funded project that had been peer-reviewed according to community standards. The final report must describe the steps taken to implement the DMP as well as information on where the data and metadata are deposited (in a trusted repository such as Ag Data Commons) with Digital Object Identifier (DOI) and with Federal award identification number (formerly known as grant number). When the project involves use of proprietary data or materials from other sources, the data or materials resulting from the NIFA supported research, education and/or extension activities must be readily available without any restrictions to the users (no reach-through rights). The terms of any usage agreements must be followed as stated in the DMP in the application or revisions prior to funding.

### **Release or Distribution of Plant Germplasm.**

If plant germplasm (including mutant populations, mapping populations, diversity panels for association analysis, transgenics, near isogenic lines, etc.) is developed and/or evaluated as part of a NIFA-funded project, these resources and associated information is to be available to other researchers for validation of

published results or additional research. Distribution of plant germplasm for commercial purposes may be limited by the producer of the germplasm. Whether these resources are created and/or evaluated inside or outside the United States, researchers are strongly encouraged to deposit germplasm, transgenic plants, mutants, plant populations, etc. into the USDA National Plant Germplasm System (NPGS) and associated information into the NPGS's database GRIN-Global. Should the project generate germplasm that would be incorporated into the NPGS, NIFA encourages Project Directors to confer with the Crop Curators and Crop Germplasm Committees in the NPGS (<https://www.ars-grin.gov/npgs/index.html>) regarding the desirability of depositing released varieties, genetic stocks and experimental plant populations and associated descriptive information generated by NIFA funding in the NPGS genebanks through GRIN-Global.

### **Release or Distribution of Animal Germplasm.**

If animal germplasm or tissue is developed and/or evaluated as part of a NIFA-funded project, these resources are to be available to other researchers and industry for validation of published results or additional research. Researchers are strongly encouraged to deposit germplasm and or tissue with the USDA-ARS National Animal Germplasm Program genebank, <https://www.ars.usda.gov/research/project/?accnNo=433404>.

### **Dissemination of Project Results.**

The recipient must notify the technical contact, via a listing clearly labeled with the award number, of any Worldwide Web-based materials resulting from the work.

### **Reporting of Accidents or Releases Involving Recombinant DNA.**

Accidents or releases involving rDNA used in NIFA-funded research are to be considered a serious adverse event and the reporting requirements of Appendix M-I-C-4-a. Safety Reporting: Content and Format and Appendix M-I-C-4-b. Safety Reporting: Time frames for Expedited Reports of the NIH Guidelines are to be followed accordingly. Further, such incidents must be reported to NIFA as soon as possible (i.e., within 48 hours) but not later than 7 calendar days after the sponsor's initial receipt of the information (in the case of fatal or life-threatening incidents) or not later than 15 calendar days after the sponsor's initial receipt of the information (if the incident is not fatal or life-threatening). Copies of initial reports and subsequent monitoring or remediation reports and documentation must be sent to: Agency Research Integrity Officer (ARIO)  
E-mail: [misconduct@usda.gov](mailto:misconduct@usda.gov)

### **U.S. Postal Mailing Address:**

National Institute of Food and Agriculture  
U.S. Department of Agriculture  
P.O. Box 419205, MS 10000  
Kansas City, MO 64141-6205

### **Courier/Package Delivery Address:**

National Institute of Food and Agriculture  
United States Department of Agriculture  
2312 East Bannister Road, MS 10000  
Kansas City, MO 64141-3061

E-mail: [electronic@usda.gov](mailto:electronic@usda.gov)

## ARTICLE 10. FINANCIAL REPORTING

### **Federal Financial Report, Form SF-425**

“Federal Financial Report,” Form SF-425, is due on an **annual basis no later than 90 days following the end of the award anniversary date** (i.e., one year following the month and day when the project period begins and each year thereafter up until a final report is required). The final report is due no later than 120 calendar days from the award end date in compliance with 2 CFR 200.344(a);

An annual Progress Report covers the most recent one-year period. **A final “Federal Financial Report,” Form SF-425, is due no later than 120 days after the expiration date of this award.** The report must be submitted to the Awards Management Division (AMD) as a pdf attachment to an email sent to [awards@usda.gov](mailto:awards@usda.gov).

- (1) All drawdowns must be made within 120 days after the expiration date of the award and before the final SF-425 is submitted.
- (2) The report must be completed on a single award basis.
- (3) The cash management information (lines 10(a) through 10(c)) is **NOT** to be completed.
- (4) The financial status information (lines 10(d) through 10(o) as well as line 11) on the form are to be completed.
- (5) The awardee must report program outlays and program income on the same accounting basis (i.e., cash or accrual) that it uses in its normal accounting system.
- (6) When submitting a financial report, the total matching contribution, if required, should be shown on lines 10i, 10j, and 10k.
- (7) Final Financial Report – There should not be any unliquidated obligations reported on the final SF-425 report. If the awardee still has valid obligations that remain unpaid when the SF-425 is due, it must request an extension of time to submit the report (see Article 5). Further, when a final report is overdue (beyond the 120-day period following the award expiration date and not covered by an approved extension of the due date for submission of the report), the grant account will be suspended, which restricts the awardee's ability to draw funds. If any remaining funding is needed by the awardee, the awardee must contact AMD and request a draw providing AMD with justification and documentation to support the draw. Such draw requests will only be approved in extenuating circumstances, as determined by NIFA. **Regardless of extensions given for the submission of the SF-425, funds will not be available for any drawdowns that exceed statutory limits as well as any expiring appropriations.**

Questions relating to the Federal Financial Report SF-425 are to be directed to the Administrative Point of Contact identified in block 14 of the Award Face Sheet, Form NIFA-2009; via email to [awards@usda.gov](mailto:awards@usda.gov); or via telephone to (202) 491-4986.

### **REReport Project Financial Report**

A Project Financial Report must be submitted through the REReport system for each year the project is active. It is due on an annual basis by February 1 of the fiscal year following the fiscal year of

expenditures being reported.

- (1) Expenditures reported on the Project Financial Report are not auditable by NIFA.
- (2) When submitting the financial report, make sure to include all appropriate non-federally employed staff support applied toward the project in terms of Scientist, Professional, Technical, and Clerical support.
- (3) The final REEport Project Financial Report covers only the last, most recent period of performance of the project; unlike the Final Report, it does not cover the life of the project from start to end date.

All questions relating to the REEport Project Financial should be submitted to REEport (see contact info in Article 9.B.a. of these award terms).

***Failure to submit an annual REEport Project Financial Report may result in grant funds being withheld until the report has been submitted as specified.***

## **ARTICLE 11. INCREMENTAL FUNDING ACTIONS**

### **Competitive Renewals**

The request for continued support should contain all the required elements of a proposal as described in the applicable request for application including a progress report. The application cover page should indicate, along with the prior NIFA award number, that the application is a renewal. The renewal application will proceed through the competitive review process in the same manner as other applications.

### **Noncompetitive Renewals and Continuations**

For noncompetitive renewal grants, the request must contain all the required elements of an application as described in the applicable request for application including a progress report. The application cover page must indicate, along with the prior NIFA award number, that the application is a renewal.

A continuation award is issued for the subsequent years of a new award. Using a streamlined process implemented in FY 2018, recipients of a continuation award no longer need to apply for subsequent year funding by submitting a noncompeting application for an additional funding/budget period within the previously approved project scope and objectives. Instead, to provide the next allotment of funding, NIFA only needs to document satisfactory progress on the project and verify a sound plan of work going forward. To do this, the recipient must submit a signature page, SF 425 Financial Report, continuation justification, budget and budget narrative for requested year of funding, changes in budget, personnel or assurances status; and the annual REEport update. Recipients will receive a letter from the NIFA National Program Leader (NPL) with a due date and job aids for submitting the required continuation award documentation.

## **ARTICLE 12. REPORTING SUBAWARDS AND EXECUTIVE COMPENSATION**

Additional administrative requirements necessary for NIFA grants and cooperative agreements to comply with the Federal Funding and Transparency Act of 2006 (FFATA) are contained in [2 CFR Part 170](#). Prime awardees must register with the Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS) database and report the required data on their first tier subawardees. Prime awardees must report the executive compensation for their own executives as part of their registration profile in System for Award Management (SAM).

### **Reporting of first-tier subawards**

1. **Applicability.** Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$30,000 or more in Federal funds for a subaward to a non-federal entity or Federal agency (see definitions in paragraph e. of this award term).

2. **Where and when to report.**

- a. The non-federal entity or Federal agency must report each obligating action described in paragraph a.1. of this award term to <https://www.fsrs.gov/>
- b. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)

3. **What to report.** You must report the information about each obligating action that the submission instructions posted at <https://www.fsrs.gov/> specify.

### **Reporting Total Compensation of Recipient Executives**

1. **Applicability and what to report.** You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—
  - a. the total Federal funding authorized to date under this award equals or exceeds \$30,000 as defined in 2 CFR 170.320;
  - b. in the preceding fiscal year, you received--
    - i. 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the transparency Act, as defined at 2 CFR 170.320 (and subawards); and
    - ii. \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
  - c. the public does not have access to information about the compensation of the Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <https://www.sec.gov/answers/execcomp.htm>.)
2. **Where and when to report.** You must report executive total compensation described in paragraph b.1. of this award term:
  - a. As part of your registration profile at <https://www.sam.gov>
  - b. By the end of the month following the month in which this award is made, and annually thereafter.

### **Reporting of Total Compensation of Subrecipient Executives**

1. **Applicability and what to report.** Unless you are exempt as provided in paragraph d. of this award term, for each first-tier non-federal entity subrecipient under this award, you must report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if--



- a. in the subrecipient's preceding fiscal year, the subrecipient received--
  - i. 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
  - ii. \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
- b. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <https://www.sec.gov/answers/execom.htm> must report subrecipient executive total compensation described in paragraph c.1. of this award term:
  - i. To the recipient.
  - ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

## 2. Exemptions

If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

- a. Subawards, and
- b. The total compensation of the five most highly compensated executives of any subrecipient.

## 3. Definitions

For purposes of this award term:

Federal Agency means a

- 1. Federal agency as defined at 5 U.S.C. 551(1) and further clarified by 5 U.S.C. 552(f)
- 2. Non-Federal entity means all of the following, as defined in 2 CFR part 25:
  - i. A Governmental organization, which is a State, local government, or Indian tribe;
  - ii. A foreign public entity;
  - iii. A domestic or foreign nonprofit organization; and
  - iv. A domestic or foreign for-profit organization;
- 3. Executive means officers, managing partners, or any other employees in management positions.
- 4. Subaward:
  - i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
  - ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR 200.331).
  - iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.
- 5. Subrecipient means a non-federal entity or Federal agency that:
  - i. Receives a subaward from you (the recipient) under this award; and
  - ii. Is accountable to you for the use of the Federal funds provided by the subaward.
- 6. Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
  - i. Salary and bonus.

- ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
- iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives and are available generally to all salaried employees.
- iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
- v. Above-market earnings on deferred compensation which is not tax-qualified.
- vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

### **ARTICLE 13. SYSTEM FOR AWARD MANAGEMENT (SAM) AND DATA UNIVERSAL NUMBERING SYSTEM (DUNS) REQUIREMENTS**

Unless exempt from the requirements under OMB guidance at 2 CFR Part 25, recipients of NIFA funds are required to obtain and maintain a DUNS number from Dun & Bradstreet and register in [SAM](#). Current recipients are required to keep their DUNS number and SAM registration up-to-date. Recipients are required to update information in SAM annually at a minimum to remain in compliance with the terms and conditions associated with their award.

#### **Requirement for SAM**

Unless exempted under 2 CFR 25.110, all applicant organizations must register in SAM and maintain the registration with current information at all times during which it has an application under consideration for funding by NIFA. If an award is made, the recipient must “maintain an active SAM registration with current information, including information on a recipient’s immediate and highest level owner and subsidiaries, as well as on all predecessors that have been awarded a Federal contract or grant within the last three years, if applicable, at all times during which it has an active Federal award or an application or plan under consideration by an Federal awarding agency” (2 CFR 25.200). The award is considered active until a final financial report is submitted or the final payment is received, whichever is later. SAM is the primary registrant database for the Federal government and is the repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the SAM internet site at <https://www.sam.gov/portal/public/SAM/>.

#### **Requirement for DUNS Numbers**

All applicant organizations must have a DUN and Bradstreet (D&B) DUNS number as the Universal Identifier when applying for Federal grants or cooperative agreements. The DUNS number is a nine-digit number assigned by Dun and Bradstreet Information Services. An AOR should be consulted to determine the appropriate number. If the organization does not have a DUNS number, an AOR should complete the [US D&B D-U-N-S Number Request Form](#) or contact Dun and Bradstreet by telephone directly at 1-866-705-5711 (toll-free) to obtain one. A DUNS number will be provided immediately by telephone at no charge. Note this is an organizational number. Individual PD/PIs do not need to register for a DUNS.

If an award is granted, the recipient organization must notify potential subrecipients that no organization may receive a subaward under the grant unless the organization has provided its DUNS number to the recipient organization.

#### **ARTICLE 14. FEDERAL AGENCY IDENTIFICATION NUMBER**

A Federal Agency Identification Number (FAIN) is a unique number federal agencies assign to federal financial assistance awards. NIFA assigns a FAIN to each award and includes it in block 8. of the award face sheet (Form NIFA-2009). Awardees must document the assigned FAIN on each subaward under the Federal award.

#### **ARTICLE 15. CLUSTER OF PROGRAMS**

For extension and education awards, the Research Terms and Conditions clarification for 2 CFR 200.17 does not automatically apply.