

**NATIONAL INSTITUTE OF FOOD AND AGRICULTURE**  
**General Terms and Conditions**  
**Grants and Cooperative Agreements**  
**October 2016**

Table of Contents

| Provision/Subject   | Page |
|---|------|
| I. <a href="#">Purpose</a> .....  | 3    |
| II. <a href="#">Introduction</a> .....  | 3    |
| III. <a href="#">Order of Precedence</a> .....  | 3    |
| IV. <a href="#">Applicable Regulations and National Policy Requirements</a> .....         | 3    |
| V. <a href="#">Flow-down of Requirements under Subawards</a> .....                        | 5    |
| VI. <a href="#">Recipient and USDA Agency Contacts</a> .....                              | 6    |
| VII. <a href="#">Period of Performance</a> .....  | 7    |
| VIII. <a href="#">Pre-Award Costs</a> .....   | 7    |
| IX. <a href="#">Allowable Costs</a> .....   | 7    |
| X. <a href="#">Indirect Costs</a> .....   | 9    |
| XI. <a href="#">Cost Sharing or Matching Requirements</a> .....                           | 9    |
| XII. <a href="#">Program Income</a> .....   | 10   |
| XIII. <a href="#">Prior Written Approval</a> .....  | 11   |
| XIV. <a href="#">Extensions</a> .....   | 17   |
| XV. <a href="#">Financial Reporting</a> .....   | 17   |
| XVI. <a href="#">Reporting Program Performance and Other Reporting Requirements</a> ..... | 19   |
| XVII. <a href="#">Responsibility for Subrecipient Monitoring and Management</a> .....     | 27   |
| XVIII. <a href="#">Payments</a> .....   | 27   |
| XIX. <a href="#">Interest Earned on Federal Advance Payments</a> .....                    | 28   |
| XX. <a href="#">Equipment</a> .....   | 29   |
| XXI. <a href="#">Procurement</a> .....  | 32   |
| XXII. <a href="#">Subrecipient and Contractor Determinations</a> .....                    | 32   |

|         |  |    |
|---------|--|----|
| XXIII.  | <a href="#">Conflict of Interest</a> .....                                       | 33 |
| XXIV.   | <a href="#">Acknowledgment of Support on Publications and Audiovisuals</a> ..... | 33 |
| XXV.    | <a href="#">Patents, Inventions and Copyrights</a> .....                         | 34 |
| XXVI.   | <a href="#">Termination</a> .....  | 34 |
| XXVII.  | <a href="#">Audit Requirements</a> .....   | 35 |
| XXVIII. | <a href="#">Debarment and Suspension</a> .....                                   | 35 |
| XXIX.   | <a href="#">Remedies for Noncompliance</a> .....                                 | 36 |
| XXX.    | <a href="#">Retention Requirements for Records</a> .....                         | 37 |
| XXXI.   | <a href="#">Requests for Transfer of Records</a> .....                           | 37 |
| XXXII.  | <a href="#">Access to Records</a> .....  | 37 |
| XXXIII. | <a href="#">Closeout Requirements</a> .....                                      | 38 |
| XXXIV.  | <a href="#">Post-closeout Adjustments and Continuing Responsibilities</a> .....  | 39 |

## **I. PURPOSE**

This document provides National Institute of Food and Agriculture (NIFA) general terms and conditions that apply to all research and research-related awards (i.e., research, education, and extension) to institutions of higher education, hospitals, other non-profit organizations and for-profit organizations. The terms and conditions will apply to all awards (grants, cooperative agreements, and special projects) funded by NIFA except: 1) Formula Funded Programs; 2) the 1890 Facilities Program; and 3) the Small Business Innovation Research Program; as well as 4) awards to individuals.

*Federal award* is defined in [2 CFR 200.38](#) and the information included in a federal award is identified in [2 CFR 200.210](#).

## **II. INTRODUCTION**

As defined in [2 CFR 200.69](#), a non-Federal entity (NFE) means a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out the award as a recipient or subrecipient. These award terms are applicable to NFEs.

You must, in addition to the assurances and certifications made as part of the award, comply with all applicable terms and conditions during the project period. Failure to comply may result in actions as outlined in section XXIX. [Remedies for Noncompliance](#).

## **III. ORDER OF PRECEDENCE**

In the event of any inconsistency between provisions of the award, the inconsistency will be resolved by giving precedence in the following order:

- Applicable laws and statutes of the United States, including any specific legislative provisions mandated in the statutory authority for the award
- Code of Federal Regulations (CFR)
- NIFA General terms and conditions for grants and cooperative agreements
- Agency policy
- Application documents

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

You agree to comply with the following regulations, as applicable. The full text of Code of Federal Regulations (CFR) references may be found at: [eCFR — Code of Federal Regulations](#). Also see <http://nifa.usda.gov/regulations-and-guidelines>. Should a national requirement be missing, you are nevertheless responsible for compliance with the applicable national policy requirements.

- (1) [2 CFR Part 25](#), “Universal Identifier and System of Award Management”
- (2) [2 CFR Part 170](#), “Reporting Subaward and Executive Compensation Information”
- (3) [2 CFR Part 175](#), “Award Term for Trafficking in Persons”
- (4) [2 CFR Part 180](#), “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)”
- (5) [2 CFR Part 182](#), “Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)”
- (6) [2 CFR Part 200](#), “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”
- (7) [2 CFR Part 400](#), “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”
- (8) [2 CFR Part 415](#), “General Program Administrative Regulations”
- (9) [2 CFR Part 416](#), “General Program Administrative Regulations for Grants and Cooperative Agreements to State and Local Governments”
- (10) [2 CFR Part 417](#), “Nonprocurement Debarment and Suspension”
- (11) [2 CFR Part 418](#), “New Restrictions on Lobbying”
- (12) [2 CFR Part 421](#), “Requirements for Drug-Free Workplace (Financial Assistance)”
- (13) [2 CFR 422](#), “Research Institutions Conducting USDA-Funded Extramural Research; Research Misconduct,” published at 79 FR 75992, Dec. 19, 2014. 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, including training, to their staff regarding policies and procedures relating to research misconduct. Grant recipients shall, upon request, make available to NIFA the policies and procedures as well as documentation to support the conduct of the training.  
  
To report allegations of research misconduct see <http://nifa.usda.gov/research-misconduct>.
- (14) [Executive Order 13513](#), “Federal Leadership on Reducing Text Messaging While Driving”

- (15) Interest of Member of Congress ([41 U.S.C. 22](#))
- (16) [P. L. 109-282, “Federal Financial Accountability and Transparency Act of 2006”](#)
- (17) [P. L. 113-101, “Digital Accountability and Transparency Act of 2014”](#)
- (18) Other laws, regulations, Executive Orders, and other applicable requirements are hereby incorporated into this award.

#### OTHER REQUIREMENTS

##### **Industrial Hemp**

By accepting the award, the awardee agrees that if it will grow or cultivate industrial hemp under the project, 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 200.336, 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>.

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

If this project will use genetic resources from outside the United States, the Project Director (PD) is advised to seek information regarding any required prior informed consent from and benefit-sharing with the appropriate host country authorities. 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, ARS, USDA, <http://www.ars.usda.gov/News/docs.htm?docid=18724> or the National Animal Germplasm Program, <http://www.ars.usda.gov/AboutUs/AboutUs.htm?modecode=54-02-05-03>, as appropriate for further guidance on archiving the collections.

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

The responsible and ethical conduct of research (RCR) is critical for excellence, as well as public trust, in science and engineering. Consequently, education in RCR is considered essential in the preparation of future scientists. 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 Against Certain Internal Confidentiality Agreements**

- (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 designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.
- (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.
- (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 NIFA determines that you are not in compliance with this award provision, NIFA:
  - a. 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;
  - b. May pursue other remedies available for your material failure to comply with award terms and conditions.

### **V. FLOW-DOWN OF REQUIREMENTS UNDER SUBAWARDS**

The terms and conditions of the award flow down to subawards to subrecipients, unless the terms and conditions specify an exception. See [2 CFR 200.101](#).

### **VI. RECIPIENT AND USDA AGENCY CONTACTS**

The following contacts are provided for your assistance.

#### Recipient Contacts:

The Project Director contact is identified in Block 15 of the Award Face Sheet (Form NIFA-2009).

NIFA will consider the individual identified in Block 5 of the SF-424 R&R Application for Funding as the recipient's administrative contact person.

#### USDA/NIFA Contacts:

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

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

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:

Planning, Accountability, and Reporting Staff  
National Institute of Food and Agriculture, USDA  
STOP 2213  
1400 Independence Avenue, S.W.  
Washington, D.C. 20250-2213  
Telephone: (202) 720-5623  
E-mail: [bayhdole@nifa.usda.gov](mailto:bayhdole@nifa.usda.gov)

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)

## **VII. PERIOD OF PERFORMANCE**

“Period of Performance” has the meaning given in [2 CFR 200.77](#), 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 (d)(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.

**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.

See Extension of a Period of Performance under XIV. Extensions.

The NFE may charge to the award only allowable costs incurred during the period of performance. See [2 CFR 200.309](#). Any costs incurred before the USDA awarding agency or pass-through entity made the award are allowed as long as they were authorized by the USDA awarding agency or pass-through entity. See VIII. Pre-Award Costs.

## **VIII. PRE-AWARD COSTS**

As outlined in [2 CFR 200.458](#), pre-award costs prior to the effective date of the award are allowable only with the written approval of the USDA awarding agency. See Pre-award Costs section under IX. Allowable Costs.

As outlined in [2 CFR 200.308 \(d\)\(1\)](#), all costs incurred before the USDA awarding agency makes the award are at the risk of the recipient. The USDA awarding agency is under no obligation to reimburse costs if for any reason the:

- (1) award is not made;
- (2) award is less than anticipated; or
- (3) award is inadequate to cover such costs.

## **IX. ALLOWABLE COSTS**

Allowable costs shall be determined in accordance with the cost-principles as outlined in [2 CFR 200.400 through 200.475](#) applicable to the NFE incurring the costs, [7 CFR 3430](#), program regulation as applicable, and these award terms and conditions.

### **Pre-award Costs**

The recipient is authorized to incur pre-award costs 90 calendar days prior to award (or more than 90 calendar days with the prior approval of the Federal awarding agency). Preaward expenditures prior to funding of an increment within a multiple-year project, including any optional years, are not subject to this limitation or approval requirement. All costs are incurred at the recipient's risk (i.e., the Federal awarding agency is under no obligation to reimburse such costs if for any reason the recipient does not receive an award or if the award is less than anticipated and inadequate to cover such costs).

### **Carry Forward Unobligated Balances**

The recipient is authorized to carry forward unobligated balances to subsequent funding periods. Any unobligated balance of funds which remains at the end of any funding period, except the final funding period of the project, shall be carried over to the next funding period, and may be



used to defray costs of any funding period of the project in addition to the current year's funding. Since the carryover of unobligated balances is automatic, no separate or specific awarding agency prior approval shall be required to authorize use of the funds.

### **Salaries of Administrative and Clerical Staff**

Direct charging the salaries is allowable if all conditions in [2 CFR 200.413](#) are met.

### **Participant support costs**

Unless otherwise specified in the program regulations or award terms and conditions, the NFE may include participant support costs such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with conferences, or training projects. However, the NFE must have prior agency approval to transfer funds budgeted for participant support costs to other categories of expense

### **Indirect Costs and Tuition Remission**

The recipient is authorized to transfer amounts budgeted for indirect costs to absorb increases in direct costs, or vice versa.

Indirect costs are allowable unless statutory language limits or prohibits the amount of allowable indirect costs. 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.**

Indirect costs and tuition remission costs are unallowable pursuant to section 1473 of the National Agricultural Research, Extension and Teaching Policy Act of 1977 (NARETPA), if this award is issued under the authority of Sec. 2(c)(1)(B) of the Competitive, Special, and Facilities Research Grant Act; Sec. 1472, Sec. 1475(d), and Sec. 1480 of NARETPA; and the Smith-Lever Act of May 8, 1914, as amended, as well as awards issued under Sec. 1447 of NARETPA and equipment, conference, and post-doc fellowship grants issued under the authority of Sec. 2(b) of the Competitive, Special, and Facilities Research Grant Act (AFRI). This limitation also applies to subawards made under any of these authorities.

### **Meals**

Meals are allowable when they are part of the cost of meetings and conferences, the primary purpose of which is the dissemination of technical information (in such instances the cost of transportation, rental of facilities, speakers' fees, and other items incidental to such meetings or conferences are also allowable). On the other hand, 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. 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.

### **Personal Injury Costs are Unallowable**

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

## **X. INDIRECT COSTS**

As outlined in [2 CFR 200.414 \(f\)](#), any NFE entity that has never had a negotiated indirect cost rate may use a de minimis rate of 10% of modified total direct costs (MTDC) which may be used indefinitely. This does not apply to States and Local Governments and Indian Tribes that receive more than \$35 million in direct Federal funding. They are required to submit their indirect cost rate proposal to their cognizant agency for indirect costs. See [Appendix VII paragraph \(D\)\(1\)\(b\) to 2 CFR Part 200](#).

As outlined in [2 CFR 200.414 \(g\)](#), any NFE that has a current federally negotiated indirect cost rate may apply for a one-time extension of the rates in that agreement for a period of up to four years. Such requests should be submitted prior to the due date of the next proposal for indirect costs. The extension will be subject to the review and approval of the cognizant agency for indirect costs. If an extension is granted, the NFE may not request a rate review until the extension period ends. At the end of the four year extension, the NFE must re-apply to negotiate a rate. Subsequent one-time extensions (up to four years) are permitted if a renegotiation is completed between each extension request.

Indirect costs will be allowed for the award when specifically included as a line item in the approved budget for this award.

Negotiated rates must be accepted by all Federal awarding agencies.

Pass through entities also must accept the negotiated rate.

See <http://nifa.usda.gov/indirect-costs> for further information.

## **XI. COST SHARING OR MATCHING REQUIREMENTS**

If the award has specific cost-sharing or matching requirements, as outlined in [2 CFR 200.306](#), contributions must meet **all** of the following criteria:

- (1) Are verifiable from the NFE's records;
- (2) Are not included as contributions for any other Federal award;
- (3) Are necessary and reasonable for accomplishment of project or program objectives;
- (4) Are allowable (see section IX. [Allowable Costs](#));
- (5) Are not paid by the Federal government under another Federal award, except where the Federal statute authorizing a program specifically provides that Federal funds

made available for such program can be applied to matching or cost sharing requirements of other Federal programs; and

- (6) Are provided for in the approved budget when required by the USDA awarding agency.

Unrecovered indirect costs, including indirect costs on cost sharing or matching may be included a part of cost sharing or matching only with the prior approval of the USDA awarding agency.

The budget plan is the financial expression of the project or program as approved during the award process. The approved budget includes the Federal share of project costs and that portion of the non-Federal share of project costs, if any, that the recipient and the Federal awarding agency formally agree upon as cost sharing (see OMB Memorandum M-01-06, *Clarification of OMB A-21 Treatment of Voluntary Uncommitted Cost Sharing and Tuition Remission Costs*, January 5, 2001 available at: <http://www.whitehouse.gov/omb/memoranda/m01-06.html>).

## **XII. PROGRAM INCOME**

Definition - Program income as defined in [2 CFR 200.80](#), means gross income earned by NFE that is directly generated by a supported activity or earned as a result of the award during the period of performance except as provided in [2 CFR 200.307 \(f\)](#).

Program income includes but is not limited to:

- income from fees for services performed,
- the use or rental of real or personal property acquired under Federal awards,
- the sale of commodities or items fabricated under a Federal award,
- license fees and royalties on patents and copyrights, and
- principal and interest on loans made with Federal award funds.

Interest earned on advances of Federal funds is not program income.

Except as otherwise provided in Federal statutes, regulations, or the terms and conditions of the Federal award, program income does not include rebates, credits, discounts, and interest earned on any of them.

Treatment - For NIFA, the additive method of [2 CFR 200.307\(e\)\(2\)](#) will be used to dispose of program income.

Records Retention - As outlined in [2 CFR 200.307 \(f\)](#) and [2 CFR 200.333 \(e\)](#), the NFE is not accountable for program income earned after the period of grant support unless the USDA awarding agency requires in terms and conditions of the award. When this is a requirement, the recipient will need to retain records for program income transactions after the period of performance. The retention period for the records pertaining to the earning of the program income starts for a period of three years from the end of the recipient's fiscal year in which the program income is earned.

### **XIII. PRIOR WRITTEN APPROVAL**

This section identifies prior approvals as outlined in [2 CFR 200.308](#), other sections of part 200 of 2 CFR, followed by NIFA-specific items and situations in which NIFA is waiving the prior approval requirement.

As outlined in [2 CFR 200.308](#), the recipient must request written prior approval from the USDA awarding agency for one or more of the following program or budget-related reasons:

- Change in the scope or the objective of the project or program (even if there is no associated budget revision requirement prior written approval).
- Change in a key person specified in the application or the award.
- If the approved project director severs his or her connection with the recipient or otherwise relinquishes active direction of the project (either permanently or for a continuous period of more than 3 months or a 25 percent reduction in time devoted to the project), then the recipient must get prior approval for a reduction in time or a replacement project director. In lieu thereof, the recipient has the option to relinquish the award (in which case the award will be terminated by mutual agreement, in accordance with [2 CFR 200.339](#)).
- Changes in the amount of NIFA-approved cost-sharing or matching.

*Prior approval also is required for the following:*

[2 CFR 200.311](#) **Real property** - Disposition. Prior approval is required for non-Federal entity to transfer title to the Federal awarding agency or to a third party designated/approved by the Federal awarding agency.

[2 CFR 200.313](#) **Equipment** - See XX., Equipment, of these terms for further information.

[2 CFR 200.430](#) **Compensation—personal services** - Unless there is prior approval by the Federal awarding agency, charges of a faculty member's salary to a Federal award must not exceed the proportionate share of the IBS for the period during which the faculty member worked on the award.

[2 CFR 200.431](#) **Compensation—fringe benefits**

(i)(2)(ii) Measurement of costs of abnormal or mass severance pay by means of an accrual will not achieve equity to both parties. Thus, accruals for this purpose are not allowable. However, the Federal Government recognizes its obligation to participate, to the extent of its fair share, in any specific payment. Prior approval by the Federal awarding agency or cognizant agency for indirect cost, as appropriate, is required.

(i)(4) Severance payments to foreign nationals employed by the non-Federal entity outside the United States, to the extent that the amount exceeds the customary or prevailing practices for the non-Federal entity in the United States, are unallowable, unless they are necessary for the performance of Federal programs and approved by the Federal awarding agency.

(i)(5) Severance payments to foreign nationals employed by the non-Federal entity outside the United States due to the termination of the foreign national as a result of the closing of, or curtailment of activities by, the non-Federal entity in that country, are unallowable, unless they are necessary for the performance of Federal programs and approved by the Federal awarding agency.

[2 CFR 200.438](#) **Entertainment costs** - Costs of entertainment, including amusement, diversion, and social activities and any associated costs are unallowable, except where specific costs that might otherwise be considered entertainment have a programmatic purpose and are authorized either in the approved budget for the Federal award or with prior written approval of the Federal awarding agency.

[2 CFR 200.439](#) **Equipment and other capital expenditures** - Capital expenditures for improvements to land, buildings, or equipment which materially increase their value or useful life are unallowable as a direct cost except with the prior written approval of the Federal awarding agency, or pass-through entity.

[2 CFR 200.440](#) **Exchange rates** - Prior approval of exchange rate fluctuations is required when the change results in the need for additional Federal funding, or the increased costs result in the need to significantly reduce the scope of the project.

[2 CFR 200.441](#) **Fines, penalties, damages and other settlements** - Costs resulting from non-Federal entity violations of, alleged violations of, or failure to comply with, Federal, state, tribal, local or foreign laws and regulations are unallowable, except when incurred as a result of compliance with specific provisions of the Federal award, or with prior written approval of the Federal awarding agency.

[2 CFR 200.442](#) **Fund raising and investment management costs** - Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred to raise capital or obtain contributions are unallowable. Fund raising costs for the purposes of meeting the Federal program objectives are allowable with prior written approval from the Federal awarding agency.

[2 CFR 200.445](#) **Goods or services for personal use** - Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances and personal living expenses are only allowable as direct costs regardless of whether reported as taxable income to the employees. In addition, to be allowable direct costs must be approved in advance by a Federal awarding agency.

[2 CFR 200.447](#) **Insurance and indemnification** - Costs of insurance or of contributions to any reserve covering the risk of loss of, or damage to, Federal Government property are unallowable except to the extent that the Federal awarding agency has specifically required or approved such costs.

[2 CFR 200.454](#) **Memberships, subscriptions, and professional activity costs** - Costs of membership in any civic or community organization are allowable with prior approval by the Federal awarding agency or pass-through entity.

[2 CFR 200.455](#) **Organization costs** - Costs such as incorporation fees, brokers' fees, fees to promoters, organizers or management consultants, attorneys, accountants, or investment counselor, whether or not employees of the non-Federal entity in connection with establishment or reorganization of an organization, are unallowable except with prior approval of the Federal awarding agency.

[2 CFR 200.462](#) **Rearrangement and reconversion costs** - Special arrangements and alterations costs incurred specifically for a Federal award are allowable as a direct cost with the prior approval of the Federal awarding agency or pass-through entity.

[2 CFR 200.467](#) **Selling and marketing costs** - Costs of selling and marketing any products or services of the non-Federal entity (unless allowed under §200.421 Advertising and public relations.) are unallowable, except as direct costs, with prior approval by the Federal awarding agency when necessary for the performance of the Federal award.

[2 CFR 200.470](#) **Taxes (including Value Added Tax)** - For many countries an exemption of this tax for research exists. Consequently, requesting this cost is unallowable for research grants involving such countries as a performance site.

#### [2 CFR 200.474](#) **Travel costs**

(a) Notwithstanding the provisions of 2 CFR 200.444 General costs of government, travel costs of officials covered by that section are allowable with the prior written approval of the Federal awarding agency or pass-through entity when they are specifically related to the Federal award.

(c)(2) Travel costs for dependents are unallowable, except for travel of duration of six months or more with prior approval of the Federal awarding agency.

#### **NIFA-Specific Items include the following:**

##### **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@nifa.usda.gov](mailto:awards@nifa.usda.gov):

- a justification for the proposed subcontractual arrangements,
- a performance statement,
- a detailed budget and narrative for the subcontract, and
- an AR signed letter of commitment.

**No-cost Extension of Time** – also see VII. Period of Performance

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

**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. The extension(s) **must be approved in writing by the ADO.** The awardee should prepare and submit a **written request (which must be received no later than 10 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 - see item b. Annual Progress Reports under XVI. Reporting Program Performance);
- 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 Authorized Representative (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), shall not exceed any applicable statutory limit as well as any expiring appropriation limitation (see Expiring Appropriation under XVIII. Payments).

**Salaries**

Salary rates of pay exceeding an Executive Level IV salary range (see Executive Schedule link at <http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2015/executive-senior-level>) requires prior NIFA approval. This rate does not include any fringe benefits, general and administrative (G&A), overhead, or other expenses. To request ADO approval, provide the salary rate of pay and a justification for the rate in a request submitted as a pdf attachment to an email sent to [awards@nifa.usda.gov](mailto:awards@nifa.usda.gov).

### **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@nifa.usda.gov](mailto:awards@nifa.usda.gov) following the guidance below:

#### **Request submitted PRIOR to the end of the 90-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 Expiring Appropriation under XVIII. Payments) or other statutory or agency policy limitations (see VII. Period of Performance). Funds will remain available for drawdown during an approved extension of time.

#### **Request submitted FOLLOWING the end of the 90-day period following the award expiration date.**

Such requests will only be considered, up to 30 days after the due date, 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 Expiring Appropriation under XVIII. Payments) or other statutory or agency policy limitations (see VII. Period of Performance).

*NIFA approves the inclusion of certain costs for which the agency's prior approval is required by 2 CFR 200.407. Unless otherwise stated, agency approval is granted for the recipient to:*

#### **2 CFR 200.308 Revision of budget and program plans**

- Incur pre-award costs 90 calendar days prior to award – see VIII. Pre-Award Costs and IV. Allowable Costs.
- Initiate a one-time extension of the final end date of the period of performance of up to 12 months – see VII. Period of Performance and XIV. Extensions.
- Carry forward unobligated balances to subsequent funding periods – see IX. Allowable Costs.
- Transfer amounts budgeted for indirect costs to absorb increases in direct costs, or vice versa.

**2 CFR 200.332 Fixed amount subawards** - Unless otherwise specified, the NFE (pass-through) may provide subawards based on fixed amounts, provided that the subawards meet the



requirements for fixed amount awards in [2 CFR 200.201](#) Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts.

[2 CFR 200.413](#) **Direct costs** - Direct charge the salaries of administrative and clerical staff if all conditions in 2 CFR 200.413 are met.

[2 CFR 200.430](#) **Compensation—personal services**

(h)(ii) Directly charge payments of Incidental activities for which supplemental compensation is allowable under written institutional policy (at a rate not to exceed institutional base salary) and not include them in the records described in paragraph (i) of 2 CFR 200.430.

(h)(3) Include charges for Intra-IHE faculty consulting on sponsored agreements that exceed a faculty member's base salary, but only in unusual cases where: (a) consultation is across departmental lines or involves a separate or remote operation; and (b) the consulting work is in addition to the faculty member's regular departmental load.

[2 CFR 200.439](#) **Equipment and other capital expenditures**

(b)(1) Direct charge capital expenditures for general purpose equipment. Prior written approval, however, is required for capital expenditures for buildings and land as a direct charge.

(b)(2) Unless otherwise specified, the requirement to obtain prior approval for special purpose equipment over \$5,000 is waived.

[2 CFR 200.447](#) **Insurance and indemnification** - Costs of insurance required or approved and maintained, pursuant to the Federal award, are allowable.

[2 CFR 200.456](#) **Participant support costs** - Unless otherwise specified, include participant support costs such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with conferences, or training projects.

[2 CFR 200.458](#) **Pre-award costs** - see VIII. [Pre-Award Costs](#) and IV. [Allowable Costs](#).

#### **XIV. EXTENSIONS**

As outlined in [2 CFR 200.308 \(d\)\(2\)](#), the recipient may initiate a one-time extension of the period of performance by up to 12 months. The recipient is authorized to initiate a one-time extension of the final end date of the period of performance of up to 12 months unless one or more of the following conditions applies:

- (A) The agency-specific requirements of the award prohibit the extension
- (B) The extension requires additional Federal funds.
- (C) The extension involves any change in the approved objectives or scope of the project.

For one-time extensions, the recipient must notify the Federal awarding agency in writing with

the supporting reasons and revised end date at least 10 days before the final end date of the period of performance specified in the award. This one-time extension may not be exercised merely for the purpose of using unobligated balances.

See XIII. Prior Approvals for the following types of extensions:

- more than one no-cost extension or an extension of more than 12 months
- extension to submit a Final Federal Financial Report, SF-425

For extensions of the period of performance - see VII. Period of Performance.

## **XV. FINANCIAL REPORTING**

As outlined in [2 CFR 200.327](#), the recipient must submit financial status reports by the frequency required in the terms and conditions of the award. The following are the financial reporting requirements for NIFA.

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

A “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). An annual Progress Report covers the most recent one-year period. **A final “Federal Financial Report,” Form SF-425, is due 90 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@nifa.usda.gov](mailto:awards@nifa.usda.gov).

- (1) All drawdowns must be made within 90 days after the expiration date of the award and before the final SF-425 is submitted.
- (2) The report shall 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 shall 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 shall request an extension of time to submit the report. See XIII. Prior Approvals. Further, when a final report is overdue (beyond the 90-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** (see Expiring Appropriation under XVIII. Payments).

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@nifa.usda.gov](mailto:awards@nifa.usda.gov); or via telephone to (202) 491-4986.

## **B. REEport Project Financial Report**

A Project Financial Report must be submitted through the REEport 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 Technical 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 item a under XVI. Reporting Program Performance for contact information).

## **XVI. REPORTING PROGRAM PERFORMANCE AND OTHER REPORTING REQUIREMENTS**

As outlined in [2 CFR 200.328](#), the NFE is responsible for oversight of the operations of the award support activities. The NFE must monitor the activities to assure compliance with applicable Federal requirements and performance expectations are being achieved. Monitoring must cover each program, function or activity.

All NIFA 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 also are to be done through the REEport system. Information on REEport

can be found on NIFA's web site at <http://nifa.usda.gov/tool/reepport> and the REEport software can be found at <http://portal.nifa.usda.gov>.

[2 CFR 200.301](#) addresses performance measurement. There is a standard information collection method (i.e., the Research Performance Progress Report (RPPR)) for performance that does not relate financial information to performance data (NIFA implements the RPPR through REEport). Therefore, there is no such requirement.

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

**A. 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:

REEport  
National Institute of Food and Agriculture  
U.S. Department of Agriculture  
STOP 2213  
1400 Independence Avenue, S.W.  
Washington, D.C. 20250-2213  
Telephone: (202) 690-0009  
E-mail: [electronic@nifa.usda.gov](mailto:electronic@nifa.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: <http://portal.nifa.usda.gov>.

Technical questions regarding the online completion of the reports should be directed to NIFA at (202) 690-0009 or via email at [electronic@nifa.usda.gov](mailto:electronic@nifa.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).

**b. 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 Project Modifications 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.***

### **c. Final Technical Report**

In the month that an award is due to expire, a request notification for the Final Technical Report will be sent electronically to the award contact designated in REEport. The Final Technical Report is required within 90 calendar days after the expiration or termination of the award. The Final Technical 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 Technical Report within 90 calendar days after the award's anniversary date may result in funds being withheld for other active NIFA grants for***

*which the Project Director(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.*

#### **d. 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 REEIS web site at: <http://www.reeis.usda.gov/>.

### **OTHER REPORTING REQUIREMENTS**

- A. 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:

Planning, Accountability, and Reporting Staff  
National Institute of Food and Agriculture, USDA  
STOP 2213  
1400 Independence Avenue, S.W.  
Washington, D.C. 20250-2213  
Telephone: (202) 720-5623  
E-mail: [bayhdole@nifa.usda.gov](mailto:bayhdole@nifa.usda.gov)

**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 USC 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 USC 2321 et seq.), pursuant to [37 CFR 401.2\(c\)](#). Invention disclosure statements pursuant to [37 CFR 401.14\(c\)](#) shall be made by creating an invention record using Interagency Edison. If possible, all supporting documentation shall also be submitted electronically using Interagency Edison. Any required paper correspondence should be sent to the NIFA central point of contact as above.

#### Invention Disclosure

**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.

1. 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.
2. 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.
3. 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 the USDA/NIFA link on the iEdison home page (<http://www.iEdison.gov>). The signed certification must be submitted to the NIFA office listed above via facsimile (preferable) or U.S. Mail.

4. Requests for waiver of the domestic manufacturing requirement must be submitted to the NIFA office listed above via facsimile (preferable) or U.S. Mail, including a detailed justification.

**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 shall not be entitled to publicly disclose or publish research results except under any one of 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 "research results" include genome maps and sequences.

## **B. Release of Animal or Plant Genome Sequence Data and Distribution of Animal or Plant Genomic Resources**

All investigators funded by NIFA must submit animal or plant genome and protein sequence data and distribute animal or plant genomic resources generated by NIFA funding as described below. Genome sequences, protein sequences, and genomic resources must be available to all **for use without restriction**. Pre-publication release of genome sequence data has been of tremendous benefit to the scientific research community and NIFA strives to ensure that such rapid release of sequence data continues. NIFA strongly encourages the entire scientific community to recognize that the continued success of the system of pre-publication data release requires active community-wide support. **There should be no restrictions** on the use of the genomic sequence data, but the best interests of the community are served when all act responsibly to promote the highest standards of respect for the scientific contributions of others. Investigators are also encouraged to collaborate and make information available via the relevant worldwide web sites.

- a. NIFA supports the currently accepted community standards (Bermuda and Ft. Lauderdale agreements; <http://www.genome.gov/Pages/Research/WellcomeReport0303.pdf>) for rapid release of genome sequences following the current guidelines for quality assessment as described by the National Institutes of Health (NIH) National Human Genome Research Institute (NHGRI) at: [www.genome.gov/10000923](http://www.genome.gov/10000923) and



[www.genome.gov/10001812](http://www.genome.gov/10001812)). Recipients of NIFA funding who submit genome sequencing data to public nucleotide sequence databases must report this fact as part of the final reporting requirements.

*Large-insert clone-based projects:* DNA sequence assemblies of 2kb or greater are to be deposited in a pre-existing public nucleotide sequence database (such as GenBank: [www.ncbi.nlm.nih.gov](http://www.ncbi.nlm.nih.gov)) within 24 hours of generation. Sequence traces from these projects are to be deposited in a trace archive (such as the National Center for Biotechnology Information (NCBI) Trace Repository) within one week of production.

*Whole genome shotgun projects:* Sequence traces from whole genome shotgun projects are to be deposited in a trace archive (NCBI Trace Repository or Ensembl Trace Server) within one week of production. Whole genome assemblies are to be deposited in a public nucleotide sequence database as soon as possible after the assembled sequence has met a set of quality evaluation criteria.

*Expressed sequence tags (EST), full-length cDNA sequences, plasmid sequences, etc.:* Other nucleotide sequences such as ESTs, full-length cDNA sequences, etc. must be submitted to a pre-existing public nucleotide sequence database (such as Genbank: [www.ncbi.nlm.nih.gov](http://www.ncbi.nlm.nih.gov)) according to the currently accepted community standards (Bermuda and Ft. Lauderdale agreements) following the current guidelines for quality assessment. At a minimum, these sequences should be deposited within one month of production and quality assessment.

- b. *Other Community Resource Projects:*** A community resource project is defined as a research project specifically devised and implemented to create a set of data (e.g., single nucleotide polymorphisms, SNP; haplotype maps; etc.), reagents, or other material(s) (e.g., plant genetic stocks) whose primary utility will be as a resource for the broad scientific community. NIFA requires that results of community resource projects be made immediately available for free and unrestricted use by the scientific community as soon as the quality of these resources is verified. At the same time, it is crucial that the scientific community recognizes and respects the important contribution made by the scientists who carry out community resource projects.
- c. *Microarray Projects:*** NIFA requires that data collection and analysis for microarray projects comply with the Minimum Information about Microarray (MIAME; [www.mged.org](http://www.mged.org)) guidelines. Data from microarray projects funded by NIFA must be submitted to a pre-existing public repository for microarray data (such as Gene Expression Omnibus (GEO): [www.ncbi.nlm.nih.gov/geo](http://www.ncbi.nlm.nih.gov/geo)) as part of the process for publishing the experimental results in a peer-reviewed scientific journal. Data from plant microarrays should also be submitted to the PLEXdb ([www.plexdb.org/](http://www.plexdb.org/)) to enable comparative analysis with additional plant gene expression data sets. If the Project Director decides not to publish the microarray data generated with NIFA funding, NIFA requires the Project Director to submit the microarray data to a pre-existing public repository for microarray data within six months after performing quality control tests on the data or upon termination of the NIFA funding, whichever comes first.

- d. *Protein Sequence*: Protein sequences generated with NIFA funding must be deposited in a pre-existing public database (such as the Universal Protein Resource (UniProt): [www.uniprot.org](http://www.uniprot.org)) as part of the process for publishing the experimental results in a peer-reviewed scientific journal. If the Project Director decides not to publish the protein sequence data generated with NIFA funding, NIFA requires the Project Director to submit the protein sequence data to a pre-existing public database within six months after performing quality control tests on the data or upon termination of the NIFA funding, whichever comes first.
- e. If NIFA funding produces additional genomic resources (libraries, biological reagents, software, plant genetic stocks, etc.) these should be made available to the public as soon as their quality is verified according to community standards. Budgeting and planning for short-term and long-term distribution of these resources and the timing of release to a clearly identified community of users as well as to the scientific community as a whole should be as described in the original application or in a revised plan of work prior to funding. The description should be specific and describe what, how, and when the community would have public access to the information and deliverables from the project. Resources generated from NIFA funding must be available to all segments of the scientific community, including industry and the international community. A reasonable charge is permissible for distribution, but the fee structure must be outlined prior to funding. If accessibility differs between industry and the academic community, the differences must be clearly described in the original application or in a revised plan of work prior to funding.
- f. When the project involves the use of proprietary data or materials from other sources, the data or materials resulting from research supported by this program must be readily available without any restrictions to the users (no reach-through rights). The terms of any usage agreements should be stated clearly in the application or revisions prior to funding.

**Release or Distribution of Animal Quantitative Trait Loci (QTL)**: Information pertaining to animal QTL that were generated with NIFA funding must be deposited into a pre-existing, public database as part of the process for publishing the experimental results in a peer-reviewed scientific journal. If the Project Director decides not to publish the animal QTL data generated with NIFA funding, NIFA requires the Project Director to submit the animal QTL data to a pre-existing, public database within six months after performing quality control tests on the data or upon termination of NIFA funding, whichever comes first.

**Release or Distribution of Plant Germplasm**. If plant germplasm (including mutant populations, mapping populations, diversity panels for association analysis, transgenics, near isogenic lines, etc.) was developed and/or evaluated as part of a NIFA-funded-project, these resources should 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 were created and/or evaluated inside or outside the US, researchers are strongly encouraged to deposit germplasm, transgenic plants, mutants, plant populations, etc. into the National Plant Germplasm System

or Stock Center. NIFA encourages Project Directors to confer early in the proposal development process with the Crop Curators and Crop Germplasm Committees in the USDA National Plant Germplasm System (NPGS) ([www.ars-grin.gov/npgs/index.html](http://www.ars-grin.gov/npgs/index.html)) regarding the desirability of depositing genetic stocks and experimental plant populations generated by NIFA funding in the NPGS genebanks.

**Release or Distribution of Animal Germplasm.** If animal germplasm or tissue was developed and/or evaluated as part of a NIFA funded project, these resources should 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 ([http://nrrc.ars.usda.gov/A-GRIN/main\\_webpage/ars?record\\_source=US](http://nrrc.ars.usda.gov/A-GRIN/main_webpage/ars?record_source=US)) genebank. Researchers should also plan on depositing relevant sequence, marker (SNPs, microsatellite), draft or whole genome and phenotypes to the Animal-GRIN database (<http://nrrc.ars.usda.gov/A-GRIN/>). Animal-GRIN is a new database under development in partnership with international partnerships from Canada and Brazil. Researchers are encouraged to also participate in developing/improving the database by improving its functionality and data availability through this interface.

**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.

### **C. 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)  
Phone: 202-401-1761  
E-mail: [misconduct@nifa.usda.gov](mailto:misconduct@nifa.usda.gov)

For U.S. Mail:  
USDA-NIFA Institute of Food Production and Sustainability  
Stop 2240 1400 Independence Avenue, SW  
Washington, DC 20250-2240

For Hand Delivery:  
USDA-NIFA Institute of Food Production and Sustainability  
Room 3359 Waterfront Centre

800 9th Street, SW  
Washington, DC 20024

## **XVII. RESPONSIBILITY FOR SUBRECIPIENT MONITORING AND MANAGEMENT**

If the project involves subaward agreements, the pass-through entity is responsible for assessing the risk of subrecipients, and ensure subrecipients are meeting the performance goals and objectives (see [2 CFR 200.330 through 200.332](#)).

The pass-through entity must provide to subrecipient(s) appropriate terms and conditions concerning closeout of the subaward(s).

Pass-through entity monitoring of the subrecipient(s) must include:

1. Reviewing financial and performance reports required by the pass-through entity.
2. Follow-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the award provided to the subrecipient from the pass-through entity detected through audits, on-site review, and other means.
3. Issuing a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity.

Timeframes for reviewing financial and programmatic reports are established by the USDA awarding agency or pass-through entity. Intervals must be no less frequently than annually nor more frequent than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the award or could significantly affect program outcomes.

## **XVIII. PAYMENTS**

Subject to [31 CFR 208.3](#), notwithstanding any other provision of law, effective January 2, 1999, all Federal payments made by the USDA awarding agency shall be made by electronic funds transfer (EFT), unless a waiver applies (see [31 CFR 208.4](#)).

As outlined in [2 CFR 200.305 \(b\)](#), for NFEs other than states, payment methods must minimize the time elapsing between the transfer of funds from the United States Treasury or the pass-through entity and the disbursement by the NFE whether the payment is made by EFT, or issuance or redemption of checks, warrants, or payment by other means.

NFEs requesting advances should request payment in amounts necessary to cover anticipated cash needs for all awards made by the USDA awarding agency as outlined in [2 CFR 200.305 \(b\)\(2\)](#).

NIFA designates the Automated Standard Applications for Payment System (ASAP), operated by the Department of Treasury's Bureau of the Fiscal Service, as the payment system for award funds. For more information see <http://nifa.usda.gov/tool/asap>.

### Expiring Appropriations

Generally, the appropriated funds that support awards expire after 5 years and the account is closed. This means that in the fifth year following an appropriation, any award funds that have not been drawdown by August 31 of that year by the awardee are subject to be returned to the Department of the Treasury. 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). In the following example, "09-823-33610," the first two numbers "09" represent the fiscal year "2009." In this example it means that the funds must be drawdown by August 31 of the year 2014.

## **XIX. INTEREST EARNED ON FEDERAL ADVANCE PAYMENTS**

In accordance with [2 CFR 200.305 \(b\)\(9\)](#), interest earned amounts up to \$500 per year may be retained by the NFE for administrative expense.

Any additional interest earned on Federal advance payments deposited in interest-bearing accounts must be remitted annually to the Department of Health and Human Services Payment Management System (PMS) through an electronic medium using either Automated Clearing House (ACH) network or a Fedwire Funds Service payment. Remittances must include pertinent information of the payee and nature of payment in the memo area (often referred to as "addenda records" by Financial Institutions) as that will assist in the timely posting of interest earned on federal funds. Pertinent details include the Payee Account Number (PAN) if the payment originated from PMS, or Agency information if the payment originated from ASAP, NSF or another federal agency payment system. The remittance must be submitted as follows:

(i) For ACH Returns:

Routing Number: 051036706

Account number: 303000

Bank Name and Location: Credit Gateway—ACH Receiver St. Paul, MN

(ii) For Fedwire Returns\*:

Routing Number: 021030004

Account number: 75010501

Bank Name and Location: Federal Reserve Bank Treas NYC/Funds Transfer Division New York, NY

(\* Please note organization initiating payment is likely to incur a charge from your Financial Institution for this type of payment)

(iii) For International ACH Returns:

Beneficiary Account: Federal Reserve Bank of New York/ITS (FRBNY/ITS)

Bank: Citibank N.A. (New York)

Swift Code: CITIUS33

Account Number: 36838868

Bank Address: 388 Greenwich Street, New York, NY 10013 USA

Payment Details (Line 70): Agency

Name (abbreviated when possible) and ALC Agency POC: Michelle Haney, (301) 492-5065

(iv) For recipients that do not have electronic remittance capability, please make check\*\* payable to: "The Department of Health and Human Services."

Mail Check to Treasury approved lockbox:

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

(\*\* Please allow 4-6 weeks for processing of a payment by check to be applied to the appropriate PMS account)

(v) Any additional information/instructions may be found on the PMS Web site at <http://www.dpm.psc.gov/>.

## **XX. EQUIPMENT**

In accordance with [2 CFR 200.313](#):

- (a) Title. Title to equipment acquired under the award will vest upon acquisition to the NFE. Unless a statute specifically authorizes the USDA awarding agency to vest title in the NFE without further obligation to the government, and the USDA awarding agency elects to do so, the title must be a conditional title. Title must vest to the recipient subject to the following conditions:
- (1) Use the equipment for the authorized purpose(s) of the project during the period of performance, or until the property is no longer needed for the purposes of the project.
  - (2) Not encumber the property without approval of the USDA awarding agency or pass-through entity.
  - (3) Use and dispose of the property in accordance with paragraphs (b), (c) and (e) of this section.

- (b) A state must use, manage and dispose of equipment acquired under the award by the state in accordance with state laws and procedures.

Other NFEs must follow paragraphs (c) through (e) of this section.

- (c) Use.

- (1) Equipment must be used by the NFE in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the award, and the NFE must not encumber the property without prior approval of the USDA awarding agency. When equipment is no longer needed for the original program or project, the equipment may be used in other activities supported by the USDA awarding agency, in the following order of priority:

- (i) Activities under the award from the USDA awarding agency which funded the original program or project, then
- (ii) Activities under awards from other Federal awarding agencies, including consolidated equipment for information technology systems.

- (2) During the time that equipment is used on the project or program for which it was acquired, the recipient must also make equipment available for use on other projects or programs currently or previously supported by the Federal government, provided that such use will not interfere with the work on the projects or program for which it was originally acquired.

- (3) The NFE must not use equipment acquired with the award to provide services for a fee that is less than private companies charge for equivalent services unless specifically authorized by Federal statute for as long as the Federal government retains an interest in the equipment.

- (4) When acquiring replacement equipment, the NFE may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property.

- (d) Management requirements. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under the award, until disposition takes place will, as a minimum, meet the following requirements:

- (1) Property records must be maintained that include description of the property, a serial number or there identification number, the source of funding for the property (including the Federal Award Identification Number (FAIN)), who holds the title, acquisition date, and cost of the property, percentage of Federal participation in the project costs for the 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.

- (2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
  - (3) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft must be investigated.
  - (4) Adequate maintenance procedures must be developed to keep the property in good condition.
  - (5) If the NFE is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.
- (e) Disposition. When the original or replacement equipment acquired under the award is no longer needed for the original project or program or for other activities currently or previously supported by a Federal awarding agency, except as otherwise provided in Federal statutes, regulations or Federal awarding agency disposition instructions, the NFE must request disposition instructions from the USDA awarding agency if required by the terms and conditions of the award. Disposition of the equipment will be made in accordance with the USDA awarding agency disposition instructions outlined in [2 CFR 200.313 \(e\)\(1\) through \(4\)](#).

### **Fixed Equipment and Real Property**

No funds awarded under the authorities of Secs. 2(b), 2(c)(1)(A), and 2(c)(1)(B) of the Competitive, Special, and Facilities Research Grant Act, Sec.1672B of the Food, Agriculture, Conservation, and Trade Act of 1990, Secs. 406 and 412 of the Agricultural Research, Extension, and Education Reform Act of 1998, or Secs. 7405 and 9008 of the Farm Security and Rural Investment Act of 2002, may be used for the renovation or refurbishment of research spaces (including site grading and improvement, and architect fees); the purchase or installation of fixed equipment in such spaces; or for the planning, repair, rehabilitation, acquisition, or construction of a building or facility.

### **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.

## **XXI. PROCUREMENT**

USDA recipients shall adhere to the requirements of [2 CFR 200.317 through 200.326](#) which prescribes standards in establishing procedures for the procurement of supplies and other expendable property, equipment, real property and other services with Federal funds.

See FAQs 200.110-6, 200-318-1, 200.320-2 of the *Frequently Asked Questions for The Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR 200* (located at <https://cfo.gov/cofar>) regarding



Effective Dates and Grace Period for Procurement, Equipment and A-110 Screening Procedures, and Methods of Procurement- Sole Source for Research, respectively.

## **XXII. SUBRECIPIENT AND CONTRACTOR DETERMINATIONS**

The NFE may concurrently receive Federal awards as a recipient, a subrecipient, or a contractor, depending on the substance of its agreements with Federal awarding agencies and pass-through entities. Therefore, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor. The USDA awarding agency may supply and require recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with this section.

(a) Subrecipients. A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient. Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:

- (1) Determines who is eligible to receive what Federal assistance;
- (2) Has its performance measured in relation to whether objectives of a Federal program were met;
- (3) Has responsibility for programmatic decision making;
- (4) Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
- (5) In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.

(b) Contractors. A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship with the contractor. Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the non-Federal entity receiving the Federal funds:

- (1) Provides the goods and services within normal business operations;
- (2) Provides similar goods or services to many different purchasers;
- (3) Normally operates in a competitive environment;
- (4) Provides goods or services that are ancillary to the operation of the Federal program; and

(5) Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

Regardless of whether an award is a grant, cooperative agreement, subgrant or contract under an award, all are expected to follow the applicable OMB cost principles in [Subpart E](#). The NFEs are also responsible for ensuring all contracts must contain the appropriate provisions outlined in [2 CFR 200, Appendix II](#).

### **XXIII. CONFLICT OF INTEREST**

As outlined in [2 CFR 200.112](#) and [2 CFR 400.2](#), the NFE must disclose in writing any potential conflict of interest to the USDA awarding agency or pass-through entity in accordance with applicable USDA awarding agency policy.

See FAQ 200.112-1 of the *Frequently Asked Questions for The Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR 200* (located at <https://cfo.gov/cofar>) regarding Conflict of Interest.

### **XXIV. ACKNOWLEDGMENT OF SUPPORT ON PUBLICATIONS AND AUDIOVISUALS**

As outlined in [2 CFR 415.2](#), the NFE shall have an acknowledgement of USDA awarding agency support placed on:

- any publications written or published with grant support and, if feasible, on any publication reporting the results of, or describing, a grant-supported activity, and
- any audiovisual which is produced with grant support and which has a direct production cost to the recipient of over \$5,000.

When acknowledging USDA support in accordance with [2 CFR Part 415](#), grantees must use the following acknowledgment for all projects or initiatives supported by NIFA:

"This material is based upon work that is supported by the National Institute of Food and Agriculture, U.S. Department of Agriculture, under award number XXX-XXXX-XXXXX."

We also expect that you will use NIFA's official identifier in all of your publication, posters, websites and presentations resulting from your award. This identifier can be found at <http://nifa.usda.gov/resource/official-nifa-identifier>.

In addition, all publications and other materials, except scientific articles or papers published in scientific journals, must contain the following statement:

"Any opinions, findings, conclusions, or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the view of the U.S. Department of Agriculture."

### **Press Announcements and Media Interviews**

Recommended awards should not be announced in any manner by a grantee until approval is obtained by NIFA's communication office. This applies to press releases, newsletters, and press interviews, web or social media postings. In many cases, the Secretary of Agriculture may want to personally announce the award.

NIFA grant awardees are requested to coordinate all public announcements with NIFA's Communication Staff at [CommunicationsStaff@nifa.usda.gov](mailto:CommunicationsStaff@nifa.usda.gov). Simultaneous announcement by NIFA and the grantee are preferred.

The awardee is responsible for acknowledging NIFA support during news media interviews that discuss work supported by NIFA.

### **XXV. PATENTS, INVENTIONS AND COPYRIGHTS**

Allocation of rights of patents, inventions and copyrights must be in accordance with [2 CFR 200.315](#) and [2 CFR 200.448](#).

In accordance with [37 CFR 401.14](#), each subject invention must be disclosed to the USDA awarding agency within two months after the inventor discloses it in writing to the contactor responsible for patent matters.

For contact information for intellectual property matters, see VI. [Recipient and USDA Agency Contact](#).

For reporting and disclosure requirements, see XVI. [Reporting Program Performance](#).

### **XXVI. TERMINATION**

As outlined in [2 CFR 200.339](#), this award may be terminated in whole or in part as follows by:

- (1) USDA awarding agency or pass-through entity, if a NFE fails to comply with the terms and conditions of this Federal award;
- (2) USDA awarding agency or pass-through entity for cause;
- (3) USDA awarding agency or pass-through entity with the consent of the NFE, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated; or

- (4) NFE upon sending to the USDA awarding agency or pass-through entity written notification setting forth the reason(s) for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the USDA awarding agency or pass-through entity determines in the case of partial termination that the reduced or modified portion of the award or subaward will not accomplish the purposes for which the award was made, the USDA awarding agency or pass-through entity may terminate the Federal award in its entirety.

When a Federal award is terminated or partially terminated, both the USDA awarding agency or pass-through entity and the NFE remain responsible for compliance with the requirements in closeout and post-closeout adjustments and continuing responsibilities.

## **XXVII. AUDIT REQUIREMENTS**

NFEs are responsible for obtaining audits in accordance with the audit requirements of [2 CFR 200.500 through 200.521](#). In addition, NFEs are subject to the audit requirements found in the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507).

A NFE that expends \$750,000 or more in a fiscal year in Federal awards must have a single or program-specific audit conducted for that year.

A NFE that expends less than \$750,000 during their fiscal year in Federal awards is exempt from Federal audit and requirements for that year, **except** as noted in [2 CFR 200.503](#) Relation to other audit requirements, but records must be available for review or audit by appropriate USDA officials, pass-through entity, and Government Accountability Office (GAO).

The audit report must be completed and the Data Collection Form ([Form SF-SAC](#)) and reporting package must be submitted within 30 calendar days after receipt of the auditor's report(s), or nine months after the end of the audit period. All auditees are to submit their audit reports directly to the Federal Audit Clearinghouse (FAC). The SF-SAC and reporting package **MUST** be submitted electronically to FAC: <http://harvester.census.gov/sac/>. Any future updates to the location of the FAC may be found at the OMB web site.

## **XXVIII. DEBARMENT AND SUSPENSION**

In accordance with [2 CFR 200.212](#), NFEs and contractors are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, [2 CFR part 180](#). These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

NFEs must comply with the provisions on governmentwide suspension and debarment in [Subpart C of 2 CFR Part 180](#), Responsibilities of Participants Regarding Transactions Doing Business with Other Persons, as supplemented by USDA's regulations at [Subpart C of 2 CFR Part 417](#), Responsibilities of Participants Regarding Transactions. These provisions restrict

Federal awards, subawards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal programs or activities.

The NFE is responsible for requiring the inclusion of a similar term or condition in any lower tier covered transaction, as described in [Subpart B of 2 CFR Part 180](#), Covered Transactions, as supplemented by USDA's regulation at [Subpart B of 2 CFR Part 417](#), Covered Transactions.

The NFE is also responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transaction. The NFE acknowledges that failing to disclose the information required under [2 CFR 180.335](#) may result in the termination of the award, or pursuance of other available remedies, including suspension and debarment.

#### **XXIX. REMEDIES FOR NONCOMPLIANCE**

As outlined in [2 CFR 200.338](#), if a NFE fails to comply with Federal statutes, regulations or the terms and conditions of the USDA award, the USDA awarding agency or pass-through entity may impose additional conditions, as described in [2 CFR 200.207](#) Specific conditions. If the USDA awarding agency or pass through entity determines that noncompliance cannot be remedied by imposing additional conditions, the USDA awarding agency or pass through entity may take one or more of the following actions, as appropriate in the circumstances:

- (a) Temporarily withhold cash payments pending correction of the deficiency by the NFE or more severe enforcement action by the Federal awarding agency or pass through entity.
- (b) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
- (a) Wholly or partly suspend or terminate the Federal award.
- (d) Initiate suspension or debarment proceedings as authorized under [2 CFR Part 180](#) and the USDA awarding agency regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by the USDA awarding agency).
- (e) Withhold further Federal awards for the project or program.
- (f) Take other remedies that may be legally available.

#### **XXX. RETENTION REQUIREMENTS FOR RECORDS**

In accordance with [2 CFR 200.333](#), financial records, supporting documents, statistical records, and all other NFE records pertinent to an award must be retained for a period of three years from the date of submission of the final expenditure report. For awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report as authorized by the USDA awarding agency or pass-through entity in the case of a subrecipient(s). The only exceptions are the following:

- (a) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
- (b) When notified in writing by the USDA awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.
- (c) Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition.
- (d) When records are transferred to or maintained by the USDA awarding agency or pass-through entity, the 3-year retention requirement is not applicable.
- (e) Records for program income transactions after the period of performance.
- (f) Indirect cost rate proposals and cost allocation plans.

#### **XXXI. REQUESTS FOR TRANSFER OF RECORDS**

As outlined in [2 CFR 200.334](#), the USDA awarding agency must request transfer of certain records to its custody from the NFE when it determines that the records possess long-term retention value. However, in order to avoid duplicate recordkeeping, the USDA awarding agency may make arrangements for the NFE to retain any records that are continuously needed for joint use.

#### **XXXII. ACCESS TO RECORDS**

As outlined in [2 CFR 200.336](#), the USDA awarding agency, inspectors general, the Government Accountability Office (GAO) and the pass-through entity or any of their authorized representatives have the right of access to recipient records. This access extends to any books, documents, papers and other records of the recipient that are pertinent to the federal award for audits, examinations, excerpts and transcripts. This right extends to the NFE's personnel for timely interviews and discussions related to associated documents. The NFE also may view pertinent records of subrecipients and contractors for similar purposes ([2 CFR 200.331\(a\)\(5\)](#)).

The USDA awarding agency or the GAO may authorize other government officials (e.g., program officials, USDA awarding agency grants management staff, federal or pass-through program officials and other officials) to access a NFE's records. These officials' responsibility extends to compliance requirements for which the NFE is held accountable, as outlined in the terms and conditions of the grant. If there are questions about such access, the NFE should contact the USDA awarding agency for guidance. If an audit begins before the three-year period expires, the relevant records must be retained until final resolution ([2 CFR 200.333](#)).

The access rights to a NFE's grant records do not expire at the end of the retention period. Authorized Federal officials have access rights as long as the records are retained by the NFE ([200.336\(c\)](#)).

In furtherance of [2 CFR 200.211](#), Reporting potentially classifiable information:

(a) This award is intended for unclassified, publicly releasable research. The recipient will not be granted access to classified information. The awarding agency does not expect that the results of the research project will involve classified information.

(b) If, however, in conducting the activities supported under this award, the project director (PD) is concerned that any of the research results involve potentially classifiable information that may warrant Government restrictions on the dissemination of the results, the PD should promptly notify the awarding agency's program official, or the administrative person (see VI. Recipient and USDA Agency Contact).

### **XXXIII. CLOSEOUT REQUIREMENTS**

As outlined in [2 CFR 200.343](#), the award closeout is the process by which the NFE and USDA awarding agency or pass-through entity determine that all required work of the award and all necessary administrative actions have been completed.

Unless the USDA awarding agency grants an extension, the NFE must submit the following no later than 90 calendar days after the end date of the period of performance:

- Financial,
- Performance, and
- Other reports as required by or identified in the terms and conditions

See XV. [Financial Reporting](#) and XVI. [Reporting Project Performance](#) for further information about the submission of final reports.

The NFE must liquidate all obligations incurred under the award not later than 90 calendar days after the end of the period of performance.

The USDA awarding agency or pass-through entity must complete close out actions no later than one year after receipt and acceptance of all required final reports. The one year period begins once the USDA awarding agency receives the final reports.

### **XXXIV. POST-CLOSEOUT ADJUSTMENTS AND CONTINUING RESPONSIBILITIES**

As outlined in [2 CFR 200.344](#), the closeout of a grant does not affect any of the following:

- (1) The right of USDA awarding agency or pass-through entity to disallow costs and recover funds because of a later audit or other review. Any disallowance determinations and

notifications made by the USDA awarding agency or pass-through entity must be made within the record retention period. See XXX. Retention Requirements for Records.

- (2) The obligation of the NFE to return any funds as a result of later refunds, corrections, or other transactions including final indirect cost rate adjustments.
- (3) Audit requirements as required in XXVII. Audit Requirements and [2 CFR 200.500 through 200.521](#).
- (4) Property management and disposition requirements in [2 CFR 200.310 through 200.316](#).
- (5) Records retention as required in XXX. Retention Requirements for Records and [2 CFR 200.333](#).