

General Terms and Conditions for APHIS Cooperative Agreements and Grants

(Effective for new awards and amendments issued on/after February 1, 2023, until amended. New verbiage is in red)

MUTUAL UNDERSTANDINGS AND RESPONSIBILITIES

The cooperating parties agree to/that:

a. A mutually satisfactory annual **Work Plan** and **Financial Plan** developed by the Recipient and APHIS are incorporated into this **Agreement** by reference. The work and financial plan must include performance goals, indicators and milestones. If APHIS initially awards a reduced level of funding during a Continuing Resolution (CR), there will be a corresponding decrease in the projected accomplishments for the funding period. Upon extension of the CR or passage of an appropriation by Congress, revisions will be executed to increase the federal share, based on available funds, not to exceed the level reflected in the annual Financial Plan.

b. The provisions of this **Agreement** will not replace functions that are being conducted by the Recipient but will supplement those activities and increase program benefits to all parties.

c. The employee(s) responsible for this work will be under the general program direction of the Recipient and APHIS. Supervision of personnel will be provided by their employing organization, and they will be subject to their employing organization's rules and regulations.

RECIPIENT RESPONSIBILITIES

The Recipient understands and agrees to/that:

a. Designate in writing to APHIS the Recipient's authorized representative who shall be responsible for collaboratively administering the activities conducted under this **Agreement**.

b. Furnish personnel, as required, to accomplish the activities outlined in the **Work Plan and Financial Plan**.

c. Submit accomplishment and financial reports in accordance with the agreed upon frequency as negotiated with the Federal awarding agency. For awards issued after November 12, 2020, Annual reports must be due 120 calendar days after the reporting period; quarterly or semiannual reports must be due 30 calendar days after the reporting period. Final reports are due within 120 days after the performance end date.

Any requests for an extension of time to submit the reports must be justified and made in writing to APHIS' authorized representative before expiration of the initial 30 or 120 day period allowed for submitting the report. Extensions of time to submit the reports are subject to the discretion of APHIS' authorized representative and, if allowed, shall be provided by the authorized representative in writing. When an agreement includes multiple projects covered by multiple Work Plans and Financial Plans, each project must be reported separately.

d. Treat any program income derived under this **Agreement** using the Deduction Alternative in accordance with the provisions of 2 CFR Part 200.307 which provides for a decrease in the financial contributions of each cooperating party to this project.

e. Due to a statutory limitation of 10 percent, the transfer of amounts budgeted for direct costs to absorb increases in indirect costs requires prior written approval of APHIS.

f. Submit to APHIS a properly certified Request for Advance or Reimbursement, SF-270, when requesting payment for expenditures. A payment request may be submitted quarterly or more frequently. 2 CFR Part 200.305(b) stipulates that payment methods must minimize the time elapsing between the transfer of funds from the United States Treasury and the disbursement by the recipient. Per 2 CFR Part 200.309, funds may only be used for expenses incurred within the Period of Performance, regardless of the accounting method.

g. APHIS may withhold payments called for in Article 5.b under the conditions outlined in .305(b) (6), including failure to comply with project objectives, Federal statutes, regulations, or the terms and conditions of the award if the Recipient or a sub-recipient is delinquent on debt to the United States, or such other conditions outlined in the cited regulations.

h. Comply with 2 CFR Part 417, Subpart C to ensure that any subrecipients that carry out the provisions of this **Agreement** are not debarred or suspended. Subrecipients are required to disclose if they, or any of their principals, are presently excluded or disqualified.

i. Comply with and enforce the requirements for a drug-free workplace as mandated in 2 CFR Part 421, "Requirements for Drug-Free Workplace".

j. Comply with and enforce the requirements in 2 CFR Part 418 for completion of the Certification Regarding Lobbying and the SF-LLL, Disclosure of Lobbying Activities. Such certifications and disclosures apply to the Recipient and any subgrants and subcontracts exceeding \$100,000.

k. If applicable, when connected to the USDA-APHIS network or hosting APHIS information and/or information systems, comply with the federal, USDA, and APHIS security and privacy requirements to protect APHIS information and information systems against cyber threats and unauthorized intrusions as required by the Federal Information Security Management Acts of 2002 and 2014 (FISMA), the National Cybersecurity Protection Act of 2014, and the Privacy Act of 1974. Specific USDA/APHIS control guidelines are outlined in the most current version of the USDA/APHIS Information System Security Handbook. In accordance with USDA and APHIS regulations and policies on email, the Recipient will not download any material (i.e., pictures, movies, or music files) bearing a copyright, nor access any material defined as inappropriate in these regulations and directives. Additionally, the Recipient agrees that any of its personnel that are given access to the APHIS network, any systems on the APHIS network, or any personnel using APHIS-owned or funded computer equipment will take all APHIS required security and privacy training. Furthermore, the Recipient will not disseminate, post, or publish in any capacity official government information or data unless authorized to do so by this Agreement.

Current APHIS security and privacy requirements, policies, and guidelines can be obtained through the APHIS Information System Security Program Manager. APHIS follows USDA's processes which are based on the most current National Institute of Standards and Technology (NIST) special publications such as NIST Special Publications (SP) 800-37 and SP 800-53 and -53A.

l. If applicable, work with the appropriate APHIS Program Unit's Information Systems Security Manager and the APHIS Information Systems Security Program Manager to ensure compliance with the FISMA assessment and authorization (A&A) requirements for APHIS information and information systems. The Recipient must follow USDA/APHIS A&A guidelines and standards described in the USDA six step risk management framework process guide located at: [Departmental Regulation: Security Assessment and Authorization](#). The regulation is based on applicable National Institute of Standards and Technology (NIST) publications such as, NIST SP 800 – 37, *Guide for Applying the Risk Management Framework to Federal Information Systems*; and, NIST SP 800 – 53, *Recommended Security Controls for Federal Information Systems*.

m. When transmit frequency determining devices (transmitters) are owned by the Federal Government, the Federal Government will have responsibility for frequency support (frequency authorizations for fixed locations). If

Recipient-owned devices are provided, it will be the Recipient's responsibility to obtain frequency support by application to the Federal Communications Commission for use of government frequencies, or to obtain non government frequencies. All radio equipment will be maintained to original factory technical specifications. Mobile radio equipment removed from service will be kept at a central location with notification made to the designated Federal official. Notification of any changes, relocation, or removal of base stations or repeater stations in the system will be made to the APHIS Radio Communications Manager at Lakewood, Colorado, who will be available for technical guidance and, if needed, make periodic trips to monitor the system.

n. Maintain an inventory control system of property purchased by the Recipient in whole or in part with Federal funds as required in the Section entitled "Equipment." In accordance with 2 CFR Part 200.313 (d), Recipients shall conduct a physical inventory at least every two years and make available, as requested, the required records for review by APHIS. The recipient is required to use the Federal Award Identification Number (FAIN) on property records.

o. In accordance with 2 CFR Part 200.312, provide an annual inventory report of any Federally-owned or Federally-leased equipment on loan to the Recipient to include a description, manufacturer model and serial number, acquisition date and cost. A disposition request shall be made to APHIS when the property is no longer needed.

p. When the Federal share of total project costs as reflected in the **Financial Plan** is over the Simplified Acquisition Threshold of \$250,000 and a cumulative transfer among direct cost categories is in excess of ten percent of the current approved total budget, the Recipient will request written prior approval for the budget revision. The Recipient will submit a revised SF-424A, Budget Information, and detailed **Financial Plan** under a cover letter to the APHIS awarding official containing a narrative justification for the proposed revision. Transfers of funds among programs, functions, or activities as indicated in Section B of the SF-424A is prohibited.

q. Comply with the requirements for coordination, development, and use of geospatial data as mandated in OMB Circular A-16, "Coordination of Geographic Information and Related Spatial Data Activities".

r. Meet the reporting requirements of the Federal Funding Accountability and Transparency Act by providing the following information: parent organization UEI number; primary place of performance, street address, city, county, state, country and zip code; indicate if performance is in multiple counties and/or states; and provide any comments that might be relevant.

s. Pursuant to 31 USC Chapter 37, any funds paid to a Recipient in excess of the amount to which the Recipient is finally determined to be entitled under the terms and conditions of the award constitute a debt to the Federal Government. If not paid within a reasonable period after the demand for payment, the Federal awarding agency may reduce the debt by:

- (1) Making an administrative offset against other requests for reimbursements.
- (2) Withhold advance payments otherwise due to the Recipient
- (3) Taking other action permitted by statute.

Except as otherwise provided by law, the Federal awarding agency shall charge interest on an overdue debt in accordance with 4 CFR, Chapter II "Federal Claims Collection Standards" and 31 USC, Chapter 37.

t. Any information furnished to APHIS under this **Agreement** is subject to the Freedom of Information Act (5 USC 552). Fees related to providing copies of records are set forth in 7 CFR Part 1, Subpart A.

u. As a condition of this grant or cooperative agreement, the Recipient assures and certifies that it is in compliance with and will comply in the course of the agreement with all applicable laws, regulations, Executive Orders and other generally applicable requirements, which hereby are incorporated in this agreement by reference, and such other statutory provisions as are specifically set forth herein. If a recipient fails to fully comply with the

mandatory requirements and award terms, the awarding agency may impose additional award conditions or take other actions as appropriate under the circumstances. These actions could include (see 2 C.F.R. § 200.339:)

- Withholding cash payments temporarily pending correction of the deficiency;
- Disallowing all or part of the cost of the activity or action that is out of compliance;
- Suspending (wholly or partly) or terminating the award; and,
- Withholding further awards for the project or program, and initiating proceedings for suspension and debarment.

v. Unless otherwise specified in the Work Plan, provide vehicles and other equipment for its employee(s) while performing the activities outlined in the Work Plan.

w. Comply with the Executive Order entitled “Federal Leadership on Reducing Text Messaging While Driving” signed by President Barack Obama on October 1, 2009, by prohibiting Recipient employees, recipients, subrecipients, contractors, and subcontractors from texting while driving on official business and/or in Federally-owned, rented, or leased vehicles (collectively government owned vehicles) or privately owned vehicles when on official Government business or when performing any work for or on behalf of or in cooperation with the Federal government.

Further, APHIS encourages the Recipient to implement--and to encourage its recipients, sub-recipients, contractors, and subcontractors, to implement--new rules and programs, and re-evaluate existing programs to prohibit text messaging while driving, and conduct education, awareness, and other outreach for its employees about the safety risks associated with texting while driving. These initiatives should encourage voluntary compliance with the text messaging policy while off duty.

For purposes of this requirement, the following definitions apply:

(1) "Texting" or "Text Messaging" means reading from or entering data into any handheld or other electronic device, including for the purpose of SMS texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication.

(2) "Driving" means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light or stop sign, or otherwise. It does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary.

x. By accepting this agreement the recipient and its executives, as defined in 2 CFR § 170.315, certify that the recipient’s policies are in accordance with the Office of Management and Budget’s guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, especially:

- Guidance for Grants and Agreements in Title 2 of the Code of Federal Regulations (2 CFR), as updated in the Federal Register’s 85 FR 49506 on August 13, 2020, particularly on: prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. No. 115—232) (2 CFR part 200.216),
- Promoting the freedom of speech and religious liberty in alignment with *Promoting Free Speech and Religious Liberty* (E.O. 13798) and *Improving Free Inquiry, Transparency, and Accountability at Colleges and Universities* (E.O. 13864) (§§ 200.300, 200.303, 200.339, and 200.341), and
- **For agreements that include an infrastructure component**, providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR part 200.322).

y. When specified in the work plan, submit to APHIS, prior to publishing any request for proposals or invitation to bid, a copy of draft statement(s) of work and specifications for products or services to be procured in support of the project covered by this Agreement. APHIS will be provided 15 calendar days to review these documents and provide input on the content.

z. Conduct audits as required under 2 CFR Part 200.500 and follow 2 CFR Part 200.512 for audit submission requirements and comply with provisions of the Single Audit Act as amended (31 U.S.C. 7507-7507)

aa. Post “And Justice for All” posters in work spaces which provide instruction for filing a program complaint of discrimination. The poster is available here: [And Justice For All Poster](#)

ab. Cooperators shall know, understand, and comply with applicable Safety & Health laws and regulations (OSH Act of 1970 and implementing regulations (29 CFR 1910 and 1926) or equivalent) as they pertain to the work activities.

ac. Retain records related to the work performed under the award and allow the Agency access to the records in accordance with 2 CFR Part 200 334-338. The recipient must take reasonable measures to safeguard protected personally identifiable (PII) information and other information that APHIS or the recipient itself considers sensitive.

ad. Adhere to closeout and post closeout procedures including the collection of outstanding debts by the Federal Government in accordance with 2 CFR Part 200.344-346.

ae. Disclose in writing any potential conflicts of interest to APHIS or the pass-through entity in accordance with 2 CFR Part 400.2. No employee, officer or agent may participate in the selection, award, or administration of a Federal award if he or she has a real or apparent conflict of interest. Recipients must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees in the selection, award and administration of Federal awards. In addition, if the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest.

af. If applicable, obtain agency approval for any subawards under 2 CFR 200.308 (c) (6) and adhere to subrecipient monitoring and management standards as described in 2 CFR Part 200.331-332.

ag. When procuring property or services under an award, adhere to all procurement standards contained in 2 CFR Part 200.317-325.

ah. Disclose, in writing to the Federal agency, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award, in accordance with 2 CFR Part 200.113.

ai. If Federal vehicles are being loaned to the recipient under this agreement comply with additional terms and conditions outlined in the document titled: “Terms and Conditions Applicable to Loan of APHIS Vehicles.”

APHIS RESPONSIBILITIES

APHIS agrees to/that:

a. Designate in writing to the Recipient APHIS' Authorized Departmental Officer's Designated Representative (ADODR)/ Program Manager (PM) who shall be responsible for collaboratively administering the activities conducted under this **Agreement**. Should this individual be temporarily detailed to another position, on extended absence or replaced by a new, permanent ADODR/PM, a letter will be issued to the Recipient by the APHIS signatory official to appoint a temporary ADODR/PM.

b. Provide funds on an advance or reimbursable basis as payment of allowable, agreed-to costs incurred by the Recipient in carrying out the terms of this **Agreement** in accordance with the **Work Plan and Financial Plan**.

c. Provide personnel and other resources to carry out its responsibilities as outlined in the **Work Plan and Financial Plan**.

d. Assist the Recipient in selecting qualified candidates to perform activities outlined in the **Work Plan and Financial Plan** and provide general program direction to employees assigned to the cooperative endeavor. However, the assigned employees will remain subject to the Recipient's rules and regulations. (This may be applicable to cooperative agreements only, to be agreed upon by the Recipient and APHIS.)

e. Provide special training to carry out assignments, as mutually deemed necessary. (This may be applicable to cooperative agreements only, to be agreed upon by the Recipient and APHIS.)

DATA SHARING AND RESPONSIBILITIES

(If applicable)

a. Data to be Shared: The parties agree to provide plant protection and quarantine data to each other. The data to be provided to each Party by the other Party includes, but is not limited to, plant protection and quarantine surveys, diagnostic information, detection activities, inspection reports, and pest interception data. Each party is responsible for transmitting the provided data to its own authorized employees, recipients, and contractors, as applicable and necessary, in order to carry out responsibilities under their respective plant health authorities. Each party agrees that it will ensure, to the extent provided by applicable laws and regulations, that data provided by the other party is not released to anyone that is not authorized to receive it.

b. Data Utilization: The parties agree that the provided data will only be used in the administration and enforcement of each party's respective plant health laws and regulations. Data provided by the parties under this Agreement may be used to ensure compliance with their respective plant health laws and regulations; to respond to domestic plant pest and disease emergencies, interceptions, and trace backs; to enhance delivery of pest exclusionary programs and activities; to support pest surveying activities; to develop quarantines and other appropriate measures for pest management and mitigation; to implement or improve international pre-clearance and/or pest eradication programs and activities, pest risk assessments, phytosanitary trade support and the issuance of plant protection and quarantine permits; and to develop, in cooperation with Federal research agencies, new and improved methods, techniques, and procedures for use in cooperative plant protection and quarantine programs and activities. Each party agrees that it will ensure that the provided data is used only for purposes specified in this Agreement and only in a manner consistent with the provisions of the Plant Protection Act.

c. Data Restrictions: The Recipient agrees and acknowledges that the data provided by APHIS pursuant to this Agreement is solely APHIS data and as such is or may be subject to the confidentiality provisions of 7 USC §8791 of the Food, Conservation, and Energy Act of 2008 (formerly Section 1619 of the 2008 Farm Bill) and the Privacy Act of 1974, and also agrees to safeguard such confidentiality and prohibit any unauthorized access to the data provided by APHIS as required by 7 USC §8791. The Recipient further agrees and acknowledges that if 7 USC §8791 does apply to some or all of the APHIS provided data, that pursuant to 7 USC §8791, the Recipient is bound to and will comply with 7 USC §8791 Copy Attached as Appendix A and related APHIS guidance. The Recipient understands that it may not release any of the data provided by APHIS since it is Federal Government data and it agrees to refer any and all requests for the data provided by APHIS, not otherwise authorized to be released under this Agreement and applicable Federal laws and regulations, to:

USDA-APHIS
Legislative and Public Affairs
Freedom of Information and Privacy Act Office
4700 River Rd. Unit 50, Riverdale, MD 20737
Telephone: (301) 851-4102

Additionally, the Recipient agrees that it will, if requested by APHIS, enter into a separate written agreement with APHIS to protect from release or disclosure any data provided by APHIS that is subject to 7 USC §8791.

SYSTEM FOR AWARD MANAGEMENT AND UNIVERSAL IDENTIFIER REQUIREMENTS

a. Requirement for System for Award Management

Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain current information in the SAM. This includes information on your immediate and highest level owner and subsidiaries, as well as on all of your predecessors that have been awarded a Federal contract or Federal financial assistance within the last three years, if applicable, until you submit the final financial report required under this Federal award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another Federal award term.

b. Requirement for Unique Entity Identifier

If you are authorized to make subawards under this Federal award, you:

1. Must notify potential subrecipients that no entity (*see* definition in paragraph C of this award term) may receive a subaward from you until the entity has provided its Unique Entity Identifier to you.
2. May not make a subaward to an entity unless the entity has provided its Unique Entity Identifier to you. Subrecipients are not required to obtain an active SAM registration, but must obtain a Unique Entity Identifier.

c. Definitions

For purposes of this term:

1. **System for Award Management (SAM)** means the Federal repository into which a recipient must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the SAM internet site (currently at <https://www.sam.gov>).
2. **Unique Entity Identifier** means the identifier assigned by SAM to uniquely identify business entities.
3. **Entity** includes non-Federal entities as defined at 2 CFR 200.1 and also includes all of the following, for purposes of this part:
 - a. A foreign organization;
 - b. A foreign public entity;
 - c. A domestic for-profit organization; and
 - d. A Federal agency.

4. *Subaward* has the meaning given in 2 CFR 200.1.

5. *Subrecipient* has the meaning given in 2 CFR 200.1.

REPORTING SUBAWARDS AND EXECUTIVE COMPENSATION

The Recipient, as a recipient signing this Agreement, shall comply with Title 2 CFR Part 170, “Requirements for Federal Funding Accountability and Transparency Act Implementation”, as follows:

a. Reporting of first-tier subawards.

(1) Applicability. Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$30,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e. of this award term).

(2) Where and when to report.

(a) You must report each obligating action described in paragraph a.(1) of this award term to <http://www.fsrs.gov>.

(b) For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)

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

b. Reporting Total Compensation of Recipient Executives.

(1) Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—

(a) The total Federal funding authorized to date under this award is \$25,000 or more;

(b) In the preceding fiscal year, you received—

i. 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR Part 170.320 (and subawards); and

ii. \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U. S. C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the United States Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

(2) Where and when to report. You must report executive total compensation described in paragraph b.(1) of this award term:

(a) As part of your registration profile at <http://www.sam.gov>.

(b) By the end of the month following the month in which this award is made, and annually thereafter.

c. Reporting of Total Compensation of Subrecipient Executives.

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

(a) In the subrecipient's preceding fiscal year, the subrecipient received—

i. 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR Part 170.320 (and subawards); and

ii. \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

(b) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the United States Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

(2) Where and when to report. You must report subrecipient executive total compensation described in paragraph c.(1) of this award term:

(a) To the Recipient.

(b) By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

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

(1) Subawards, and

(2) The total compensation of the five most highly compensated executives of any subrecipient.

e. Definitions. For purposes of this award term:

(1) Entity means all of the following, as defined in 2 CFR Part 25:

- (a) A Governmental organization, which is a State, local government, or Indian tribe;
- (b) A foreign public entity;

(c) A domestic or foreign nonprofit organization;
(d) A domestic or foreign for-profit organization;
(e) A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

(2) Executive means officers, managing partners, or any other employees in management positions.

(3) Subaward:

(a) This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the Recipient award to an eligible subrecipient.

(b) The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec 2 CFR Part 200.331 and 2 CFR Part 200.501).

(c) A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

(4) Subrecipient means an entity that:

(a) Receives a subaward from you (the Recipient) under this award; and

(b) Is accountable to you for the use of the Federal funds provided by the subaward.

(5) Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR Part 229.402(c)(2)):

(a) Salary and bonus.

(b) Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

(c) Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

(d) Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

(e) Above-market earnings on deferred compensation which is not tax-qualified.

(f) Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

AVAILABILITY OF FUNDING

This **Agreement** is contingent upon the passage by Congress of an appropriation from which expenditures may be legally met and shall not obligate APHIS upon failure of Congress to so appropriate. This **Agreement** also may be reduced or terminated if Congress only provides APHIS funds for a finite period under a Continuing Resolution.

UNEMPLOYMENT COMPENSATION

Actual costs incurred for unemployment insurance or equitable contributions made to a self-insured unemployment fund are allowable. APHIS does not allow payment of costs incurred for unemployment claims.

CONGRESSIONAL RESTRICTION

Under 41 USC 6306, no member of or delegate to Congress shall be admitted to any share or part of this **Agreement** or to any benefit to arise therefrom.

APPLICABLE REGULATIONS

As a condition of this award, the Recipient agrees to comply and require subrecipients to comply with the requirements contained in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”, 2 CFR Part 400; Nonprocurement Debarment and Suspension” 2 CFR Part 417; “Requirements for Drug-Free Workplace”, 2 CFR Part 421; "New Restrictions on Lobbying", 2 CFR Part 418; and Office of Management and Budget regulations governing "Controlling Paperwork Burdens on the Public", 5 CFR Part 1320.

EQUIPMENT

In accordance with 2 CFR Part 200.310, recipients must provide equivalent insurance coverage for real property and equipment acquired or improved with Federal funds as provided to property owned by the recipient.

APHIS reserves the right to transfer title to any equipment purchased partially or fully by the Recipient under this **Agreement** with Federal funds within 120 days after the end of the Federal support of the project for which it was acquired. Upon transfer of title, the Recipient will be entitled to compensation equal to its percentage of participation in the purchase of the equipment in the year purchased, applied to the fair market value in the year title is transferred.

PATENTS AND INVENTIONS

The Recipient shall report Invention Disclosures and Utilization information to the USDA APHIS ADODR/PM listed on the agreement prior to the time of application for any patent or invention which is paid for in any manner or any percentage of funds provided by APHIS. This duty is not limited to the period during the Agreement but may arise at any time during or subsequent to the Agreement. APHIS reserves to itself a royalty-free, nonexclusive, and irrevocable right to use and authorize others to use Subject Invention(s)/invention(s) produced under this Agreement for Government purposes. The term “Invention” means any invention or discovery which is or maybe patentable or otherwise protectable or any novel variety of plant which is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321 *et seq*). The term “Subject Invention” means any invention or other intellectual property conceived or first reduced to practice under this Agreement that is patentable or

otherwise protectable under title 35 of the United States Code, or 7 U.S.C. 2321. APHIS also retains the ability to force utilization of patented invention(s) set forth in 35 U.S.C. 203 and paragraph (j) of the clause at Sec. 401.14.

Any royalties or equivalent income earned during the effective period of this **Agreement** on patents or inventions derived under this **Agreement** shall be considered program income and treated under the provisions of 2 CFR Part 200.307.

COPYRIGHTS

APHIS reserves a royalty-free, nonexclusive, and irrevocable license to exercise, and to authorize others to exercise, the rights for Federal government purposes to copyrighted materials developed under this **Agreement**. Subject to this license, the owner is free to exercise, preserve, or transfer all its rights. The Recipient shall ensure that no agreement is entered into for transferring the rights which would conflict with the nonexclusive license of APHIS.

Any royalties or equivalent income earned during the effective period of this **Agreement** on copyrighted material derived under this **Agreement** shall be considered program income and treated under the provisions of 2 CFR Part 200.307.

PUBLICATIONS AND AUDIOVISUALS

The final draft of any funded publication or audiovisual must be submitted by the Recipient to APHIS' authorized representative prior to final printing, editing or release of the product so that APHIS can make a determination as to whether APHIS' participation in the project will be acknowledged. APHIS, furthermore, may require that the Recipient modify or purge any acknowledgment of its support for activities conducted under this **Agreement** as a result of its review of a final draft. If APHIS has not responded within 30 days of receipt of the draft, the Recipient will be free to proceed with publication without an acknowledgment. In the event that APHIS elects not to acknowledge the product, the Recipient agrees not to attribute sponsorship by APHIS by any means including, but not limited to, publications, interviews, new releases, etc.

When an acknowledgment is desired by APHIS, unless otherwise instructed by APHIS, the statement shall read: "This material was made possible, in part, by a **Cooperative Agreement** from the United States Department of Agriculture's Animal and Plant Health Inspection Service (APHIS). It may not necessarily express APHIS' views."

Additionally, any other acknowledgment, including use of the USDA Logo, by the Recipient of APHIS support shall have the express written permission of APHIS signatory to this Agreement, which shall be requested through the APHIS representative designated under this **Agreement**.

FUNDING PERIOD OBLIGATIONS AND EXTENSIONS

The funding period is the period during which this **Agreement** is in effect. Any funds not obligated by the Recipient during the funding period will revert to APHIS upon the expiration or termination of this funding period. Under 2 CFR Part 200.308 (e) (2), this **Agreement** is subject to a one-time extension of up to 12 months to complete this project. The Recipient must submit a written request including an SF-424, Application for Federal Assistance, to extend the duration to be received by APHIS **at least 10 days prior to the expiration of the funding period**. The SF-424 must be accompanied by a justification explaining the reason for program delays, the program impact without the extension, and the anticipated completion date. During the extension period, financial and progress reports will continue with the same frequency as provided in the original funding period. As stated in 2 CFR Part

200.308 (e) (2), requests for extension purely to obligate funds will be denied by APHIS. All extensions must be approved, in writing, by APHIS prior to the expiration of the original funding period.

NON-DISCRIMINATION CLAUSE

The United States Department of Agriculture prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program. Not all prohibited bases apply to all programs.

TRAFFICKING IN PERSONS

APHIS, as the Federal awarding agency, hereby advises the Recipient, as the recipient, that they are subject to the provisions of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 USC 7104(g), as follows:

a. Provisions applicable to a recipient that is a private entity.

(1) You, as the Recipient, your employees, subrecipients under this award, and subrecipients' employees may not –

(a) Engage in severe forms of trafficking in persons during the period of time that the award is in effect;

(b) Procure a commercial sex act during the period of time that the award is in effect; or

(c) Use forced labor in the performance of the award or subawards under the award.

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

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

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

i. Associated with performance under this award; or

ii. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR 417.

b. Provision applicable to a recipient other than a private entity. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity –

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

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

(a) Associated with performance under this award; or

(b) Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 CFR Part 417.

c. Provisions applicable to any recipient.

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

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

(a) Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 USC 7104(g)), and

(b) Is in addition to all other remedies for noncompliance that are available to use under this award.

(3) You must include the requirements of paragraph a.(1) of this award term in any subaward you make to a private entity.

d. Definitions. For purposes of this award term:

(1) “Employee” means either:

(a) An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or

(b) Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

(2) “Forced labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

(3) “Private entity”:

(a) Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR Part 175.25.

(b) Includes:

i. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR Part 175.25(b).

ii. A for-profit organization.

(4) “Severe forms of trafficking in persons,” “commercial sex act,” and “coercion” have the meanings given at section 103 of the TVPA, as amended (22 USC 7102).

FLY AMERICAN ACT

The Recipient organization shall comply with section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, 49 U. S. C. 1517 (Fly American Act), which requires:

a. Any air transportation to, from, between, or within a country, other than the United States, of persons or property, the expense of which will be assisted by USDA funding, will be performed on a United States flag carrier if service provided by such carrier is “available.”

b. For the purposes of the requirement:

(1) Passenger or freight service by a certified air carrier is considered “available” even though:

(a) Comparable or a different kind of service by a non-certificated air carrier costs less; or

(b) Service by a non-certificated air carrier can be paid for in excess foreign currency; or

(c) Service by a non-certificated air carrier is preferred by the Recipient organization contractor or traveler needing air transportation.

(2) Passenger service by a certificated air carrier is considered to be “unavailable”:

(a) When the traveler, while enroute, has to wait 6 hours or more for an available United States carrier: or

(b) When any flight by a United States carrier interrupted by a stop anticipated to be 6 hours or more for refueling, reloading, repairs, and so forth, and no other flight by a United States carrier is available during the 6 hour period: or

(c) When the flight by a United States carrier takes 12 or more hours longer than a foreign carrier.

REPORTING OF MATTERS RELATED TO RECIPIENT INTEGRITY AND PERFORMANCE *(Only applicable when the total federal share of the award may include more than \$500,000 over the period of performance.)*

1. General Reporting Requirement

If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then you as the Recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U. S. C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

2. Proceedings About Which You Must Report

Submit the information required about each proceeding that:

a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;

b. Reached its final disposition during the most recent five-year period; and

c. Is one of the following:

(1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;

(2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;

(3) An administrative proceeding, as defined in paragraph 5. of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or

(4) Any other criminal, civil, or administrative proceeding if:

(i) It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;

(ii) It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and

(iii) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

3. Reporting Procedures

Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

4. Reporting Frequency

During any period of time when you are subject to the requirement in paragraph 1 of this award term and condition, you must report proceedings information through SAM for the most recent five year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

5. Definitions

For purposes of this award term and condition:

a. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (*e.g.*, Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.

b. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of *nolo contendere*.

c. Total value of currently active grants, cooperative agreements, and procurement contracts includes—

(1) Only the Federal share of the funding under any Federal award with a Recipient cost share or match; and

(2) The value of all expected funding increments under a Federal award and options, even if not yet exercised.

PROHIBITION ON PROVIDING FUNDS TO THE ENEMY

(a) The recipient must—

(1) Exercise due diligence to ensure that none of the funds, including supplies and services, received under this grant or cooperative agreement are provided directly or indirectly (including through subawards or contracts) to a person or entity who is actively opposing the United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities, which must be completed through 2 CFR Part 180.300 prior to issuing a subaward or contract and;

(2) Terminate or void in whole or in part any subaward or contract with a person or entity listed in SAM as a prohibited or restricted source pursuant to subtitle E of Title VIII of the NDAA for FY 2015, unless the Federal awarding agency provides written approval to continue the subaward or contract.

(b) The recipient may include the substance of this clause, including this paragraph (a), in subawards under this grant or cooperative agreement that have an estimated value over \$50,000 and will be performed outside the United States, including its outlying areas.

(c) The Federal awarding agency has the authority to terminate or void this grant or cooperative agreement, in whole or in part, if the Federal awarding agency becomes aware that the recipient failed to exercise due diligence as required by paragraph (a) of this clause or if the Federal awarding agency becomes aware that any funds received under this grant or cooperative agreement have been provided directly or indirectly to a person or entity who is actively opposing coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

ADDITIONAL ACCESS TO RECIPIENT RECORDS

(a) In addition to any other existing examination-of-records authority, the Federal Government is authorized to examine any records of the recipient and its subawards or contracts to the extent necessary to ensure that funds, including supplies and services, available under this grant or cooperative agreement are not provided, directly or indirectly, to a person or entity that is actively opposing United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities, except for awards awarded by the Department of Defense on or before Dec 19, 2017 that will be performed in the United States Central Command (USCENTCOM) theater of operations.

(b) The substance of this clause, including this paragraph (b), is required to be included in subawards or contracts under this grant or cooperative agreement that have an estimated value over \$50,000 and will be performed outside the United States, including its outlying areas.

FUNDING/EFFECTIVE PERIOD, REVISIONS, AND TERMINATION

The federal and non-federal contributions expressed on the Award Face Sheet establish a cost share ratio which shall be attained for the funding period, unless prior approval is granted by APHIS to amend the ratio, prior to the agreement's expiration. The Recipient may only incur costs chargeable to the award during the period of performance and cost overruns will be the sole responsibility of the Recipient, unless additional funding is secured from APHIS prior to the expiration of the funding period. In the event that project costs are less than projected, each party will realize a percentage of the savings to be distributed based on the established ratio. Further, this **Agreement** may be amended at any time during the effective period by mutual agreement of the parties in writing. It may be suspended or terminated in whole or in part to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities (2 CFR part 200.340).

If APHIS is under a Continuing Resolution (CR), the Federal share provided by APHIS under this Agreement may represent an incremental, reduced amount of the total reflected in the Financial Plan to this Agreement; future funding made available by Congress under another CR or an appropriation will necessitate a revision(s) to increase the funding level.