



Agricultural Marketing Service (AMS) Grants Division General Terms and Conditions

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1.0 OVERVIEW OF GENERAL TERMS AND CONDITIONS

The Agricultural Marketing Service (AMS) Grants Division general terms and conditions apply to all AMS grant agreements and provide the requirements for a recipient's grant. The general terms and conditions are determined by statutory, regulatory, and agency requirements, as well as the administrative policies. By accepting a grant agreement with AMS, recipients accept responsibility for all applicable terms and conditions. Failure to comply may result in actions described in section [17.0 Remedies for Noncompliance](#).

AMS uses USDA's [ezFedGrants](#) online grants and agreements management system. AMS grant recipients must register and use the system to submit all applicable grant related documents. For registration instructions, visit the [ezFedGrants](#) home page or use the [onboarding reference](#).

The Grant Agreement Face Sheet (Form AMS-33) references these terms and conditions and provides a link to the [AMS website](#) that contains all related documents to manage the award.

1.1 Common Terms and Acronyms

| Term/Acronym | Meaning |
|---------------|---|
| ACH | Automated Clearing House |
| AMS | Agricultural Marketing Service |
| AOR | Authorized Organization Representative |
| CFDA | Catalog of Federal Domestic Assistance |
| CFR | Code of Federal Regulations |
| DUNS | Data Universal Numbering System |
| EFT | Electronic Fund Transfer |
| ezFedGrants | USDA's Grants and Agreements Management System |
| FAIN | Federal Award Identification Number; also known as the Grant Agreement Number |
| GAAP | Generally Accepted Accounting Principles |
| GAGAS | Generally Accepted Government Auditing Standards |
| GSA | General Services Administration |
| OMB | Office of Management and Budget |
| PMS | Department of Health and Human Services Payment Management System |
| Protected PII | Protected Personally Identifiable Information |
| SAM | System for Award Management (SAM.gov) |
| SF | Standard Form |
| USDA | United States Department of Agriculture |

1.2 Order of Precedence

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

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

1.3 Definitions

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

- *Cost sharing or matching* ([2 CFR § 200.29](#)) means the portion of project costs not paid by Federal funds.

- *Federal award* ([2 CFR § 200.38](#)) means the grant agreement, cooperative agreement, other agreement for assistance, or the cost-reimbursement contract awarded under the Federal Acquisition Regulations setting forth these terms and conditions.
- *Non-Federal entity* ([2 CFR § 200.69](#)) means a state, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out the award as a recipient or subrecipient. These award terms are applicable to non-Federal entities.
- *Period of Performance* ([2 CFR § 200.77](#)) means the time during which the non-Federal entity may incur new obligations to carry out the work authorized under the Federal award. In addition, the term includes any extension of the end date of the award, such as a no-cost extension authorized by [2 CFR § 200.308](#), paragraph (d)(2). The period of performance is identified in block 15 of the Grant Agreement Face Sheet (Form AMS-33) and will determine the effective commencement date of the award.
- *Personally Identifiable Information (PII)* ([2 CFR § 200.79](#)) means information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual. Non-PII can become PII whenever additional information is made publicly available, in any medium and from any source, that, when combined with other available information, could be used to identify an individual.
- *Program income* ([2 CFR § 200.80](#)) means gross income earned by the non-Federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance.
- *Recipient* ([2 CFR § 200.86](#)) means a non-Federal entity that receives a Federal award directly from a Federal awarding Agency to carry out an activity under a Federal program. The term recipient does not include subrecipients.
- *Subaward* ([2 CFR § 200.92](#)) means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to contractors or to individuals who are beneficiaries of a Federal program. A subaward may be provided through any form of legal agreement, including a contract.
- *Subrecipient* ([2 CFR § 200.93](#)) means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program.
- *Unrecovered indirect cost* ([2 CFR § 200.306\(c\)](#)) means the difference between the amount charged to the Federal award and the amount that could have been charged to the Federal award under the potential recipient's approved negotiated indirect cost rate.

2.0 FINANCIAL MANAGEMENT

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

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

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

A recipient's financial management system must include:

- 1) Identification, in its accounts, of all Federal awards received and expended and the Federal programs under which they were received. This identification must include, as applicable:
 - a. The CFDA title and number;
 - b. The Grant Agreement Number/FAIN and Federal fiscal year awarded;
 - c. The name of the Federal Agency; and
 - d. The name of the pass-through entity, if applicable.

- 2) Accurate, current, and complete disclosure of the financial accounting of each Federal award or program.
- 3) Records that adequately identify the source and application of funds for Federally funded activities. These records must contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income, and interest. Accounting records must be supported by source documentation such as canceled checks, paid bills, payrolls, time and attendance records, contracts, and subaward documents.
- 4) Effective control over, and accountability for, all funds, property, and other assets. Recipients must adequately safeguard all assets and assure that they are used solely for authorized purposes.
- 5) Comparison of expenditures with budget amounts for each Federal award.
- 6) Written procedures to implement the requirements of [2 CFR § 200.305](#) *Payment*, which minimize the time elapsing between the transfer of Federal funds to any non-Federal entity and the disbursement of the funds for direct program costs and the proportionate share of any allowable indirect or facilities and administrative costs.
- 7) Written procedures for determining the allowability of costs in accordance with 2 CFR § 200 Subpart E—Cost Principles and the terms and conditions of this award.

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

2.1 Audit Requirements

Recipients (other than Federal agencies and for-profit recipients) are responsible for obtaining audits in accordance with the [2 CFR § 200 Subpart F – Audit Requirements](#). These standards require any non-Federal entity that expends \$750,000 or more in Federal awards during its fiscal year to have a single or program-specific audit conducted for that year.

The audit must meet the standards specified in [GAGAS](#). Recipients must follow a systematic method to ensure timely and appropriate resolution of audit findings and recommendations, whether discovered because of a Federal audit or an audit initiated by the pass-through entity.

If applicable, a recipient must submit the most recent Single Audit to AMS 30 calendar days after completion. If a recipient does not submit its Single Audit, it must conduct a Program Specific Audit following GAGAS within 60 calendar days after the end date of its grant agreement. A link to the audit report or an electronic version of the audit report is acceptable. All auditees are also to submit their audit reports directly to the Federal Audit Clearinghouse (FAC). The SF-SAC and reporting package MUST be submitted electronically to FAC at: <https://harvester.census.gov/facweb/>. Any future updates to the location of the FAC may be found at the OMB website.

2.2 Cost Sharing or Matching

If the grant agreement has specific cost sharing or matching requirements, the recipient must ensure that it complies with the applicable provisions found in [2 CFR § 200.306](#). The recipient may use funds or other resources contributed by other non-Federal entities to satisfy the cost sharing or matching requirement. Cost sharing or matching in the form of cash and/or in-kind non-Federal resources must be directly related to the project's objectives. If a recipient volunteers cost sharing above the program's required amount, the total becomes a binding requirement of Federal award outlined in [2 CFR § 200.99](#).

Recipients must maintain documentation identifying:

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

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

A recipient may use unrecovered indirect costs as part of cost sharing or matching. Recipients cannot use Federal funds or program income to meet cost sharing or matching requirements.

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

3.0 SUBRECIPIENT MONITORING & MANAGEMENT

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

If the recipient uses subawards, it must enter into a formal written agreement with each subrecipient that addresses the arrangements for meeting the programmatic, administrative, financial, and reporting requirements of the grant, including those necessary to ensure compliance with all applicable Federal regulations and policies. Specifically, the recipient is responsible for including the requirements of the applicable AMS Grants Division General Terms and Conditions in its subaward agreements as well as the provisions required under [2 CFR § 200.331](#).

If a subrecipient fails to comply with the terms and conditions of this award, the recipient may impose special award conditions, including one or more of the corrective actions outlined in [2 CFR § 200.338](#) Remedies for Noncompliance.

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

4.0 PAYMENTS

4.1 Types of Payments

Advance – An advance payment is a payment that AMS or a pass-through entity makes before funds are disbursed for program purposes. Requests for advance payments must be limited to amounts needed to meet actual and immediate cash needs and must be accompanied with a written justification.

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

4.2 How to Request Payments

AMS grant recipients are required to request payments electronically through the ezFedGrants system. Recipients not already enrolled must register in the system to request payments. Instructions for requesting a payment can be found in the [ezFedGrants](#) system.

AMS Grant Program Worksheet

If required by the grant agreement, an [AMS Grant Programs Worksheet](#) must be attached in ezFedGrants when submitting a payment. The AMS-33 Grant Agreement Award Face Sheet provisions section will indicate if it is required to submit an AMS Grant Program Worksheet.

Receipt of Request by AMS

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

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

4.3 Payment Source Documentation and Other Requirements

Recipients must collect and maintain source documentation associated with costs incurred as a result of the Federal award and make it available to AMS upon request. Source documentation includes, but is not limited to receipts, canceled checks, paid bills, payrolls, time and attendance records, contracts, invoices, and subaward documents. If recipients pay a portion of the

total amount indicated on the source document, it must appropriately identify the specific expenses and total amount charged to the grant.

4.4 Timely Drawdown and Use of Grant Funds

AMS may reduce grant agreement funds without further cause if the recipient does not drawdown funds within the first year of the grant period, and at reasonable intervals thereafter.

5.0 INTEREST EARNED AND ADVANCES OF GRANTS FUNDS

In accordance with [2 CFR § 200.305 \(b\)\(9\)](#), the recipient may retain interest earned on Federal payments deposited in interest-bearing accounts up to \$500 per year for administrative expenses. Any additional interest earned must be remitted annually to the Federal PMS, which handles payments to the Treasury. The recipient must remit the interest electronically using either an ACH network or a Fedwire Funds Service payment. Remittances must include pertinent information about the payee and nature of payment in the memo area (often referred to as “addenda records” by Financial Institutions) which will assist in the timely posting of interest earned on Federal funds. Since the payment does not originate from PMS, the recipient must include pertinent AMS information. Submit the remittance using one of the following example formats:

ACH Return Example:

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

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

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

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

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

Allow 4-6 weeks for check payments by to be applied to the appropriate PMS account. Any additional information/instructions may be found on the PMS Website at <https://www.dpm.psc.gov/>.

6.0 PROGRAM INCOME

Unless otherwise stated in the AMS-33 Award Face Sheet provisions section, AMS authorizes the use of program income through the additive method ([2 CFR § 200.307\(e\)\(2\)](#)). Any program income generated during the grant period must be used to further the objectives of the project. All program income must be recorded on the Federal Financial Report (SF-425) for the period in which it was earned. Recipients are not accountable for program income earned after the grant period. Program income includes, but is not limited to:

- Income from fees for services performed;
- The sale of commodities or items fabricated under an award (this includes items sold at cost if the cost of producing the item was funded in whole or partially with grant funds); and
- Registration fees for conferences, workshops, etc.

Royalties or equivalent income earned from patents, inventions, trademarks, and copyrighted works is not subject to this section.

7.0 PROCUREMENTS

Recipients may acquire commercially available goods and services in connection with a project. In doing so, the recipient must use its own documented procurement procedures which may reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards found at [2 CFR § 200.318](#) through [2 CFR § 200.326](#).

- **State recipients** must follow the same policies and procedures the State uses for procurements from non-Federal funds. The State will comply with [2 CFR § 200.322](#) and ensure that every purchase order or other contract includes applicable provisions described in [Appendix II of 2 CFR § 200](#).
- **All other non-Federal recipients** must follow [2 CFR § 200.318](#) through [§ 200.326](#).
- The requirements of the Federal award also apply to any subcontract. The recipient is responsible for ensuring that all of its contracts made in connection with the AMS project contain the applicable provisions described in [Appendix II of 2 CFR § 200](#).

8.0 ALLOWABLE COST AND ACTIVITIES

8.1 Indirect Costs

Indirect costs as defined at ([2 CFR § 200.56](#)) represent the expenses of doing business that are not readily-identified with a particular grant, contract, project function or activity, but are necessary for the general operation of the organization and the conduct of activities it performs. Refer to [2 CFR §§ 200.413](#) and [414](#) for additional information on determining if costs charged to the award are direct or indirect.

Any non-Federal entity that has never received a negotiated indirect cost rate, except for those non-Federal entities described in [Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost Proposals, paragraph D.1.b](#), may elect to charge a de minimis rate of 10 percent of Modified Total Direct Costs (MTDC) which may be used indefinitely. Costs must be consistently charged as either indirect or direct costs but may not be double charged or inconsistently charged as both ([2 CFR § 200.403](#)). If chosen, this methodology, once elected, must be used consistently for all Federal awards until such time when a recipient chooses to negotiate for a rate, which the recipient may apply to do at any time.

All applicants who elect to charge a de minimis rate of 10 percent must use the MTDC as the base. MTDC is defined in [2 CFR § 200.68](#) as all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of each subaward (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs, and the portion of each subaward in excess of \$25,000. Other items may be excluded only when necessary to avoid a serious inequity in the distribution of indirect costs, and with the approval of the cognizant Agency for indirect costs.

If a non-Federal entity chooses to negotiate for a rate, the non-Federal entity must contact its cognizant Agency for indirect costs.

Federally Negotiated Indirect Cost Rates

Unless otherwise required by statute or regulation, AMS will accept Federally negotiated rates. These requirements flow down through the pass-through entities affecting subawards.

8.2 Allowable and Unallowable Costs and Activities

The following table summarizes allowable and unallowable costs in common categories for AMS grant programs. This section is not intended to be all-inclusive. The recipient should consult the Federal Cost Principles ([Subpart E-Cost Principles of 2 CFR § 200](#)) for the complete explanation of the allowability of costs. If recipients have questions concerning the allowability of costs after reviewing this section, they should contact their AMS representative.

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

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

| | | |
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| Contractual/Consultant Costs (Professional Services) | ALL | <p>Allowable subject to limitations. Contractual/consultant costs are expenses associated with purchasing goods and/or procuring services performed by an individual or organization other than the recipient in the form of a procurement relationship.</p> <p>Allowable for contractor/consultant employee rates that do not exceed the salary of a GS-15 step 10 Federal employee in the area (for more information, visit the OPM website) and travel that is reasonable and necessary. This does not include fringe benefits, indirect costs, or other expenses. If rates exceed this amount, the recipient is required to justify the allowability of the cost aligning with 2 CFR §§ 200.317-326.</p> |
| Contributions or Donations | ALL | <p>Unallowable for contributions or donations, including cash, property, and services, made by the recipient to other entities. A non-Federal entity using grant funds to purchase food or services to donate to other entities and/or individuals is unallowable.</p> |
| Electronic Benefit Transfer (EBT) Machines | ALL | <p>Unallowable for the purchase/lease of Supplemental Nutrition Assistance Program (SNAP) EBT equipment.</p> |
| Entertainment Costs | ALL with exceptions | <p>Unallowable for entertainment costs including amusement, diversion, and social activities and any costs directly associated with such costs (such as bands, orchestras, dance groups, tickets to shows, meals, lodging, rentals, transportation, and gratuities). Entertainment costs are defined in 2 CFR § 200.438.</p> <p>Allowable when provided in the application documents and either in the approved budget or with prior written approval; however, cost must be reasonable and not represent a significant amount of the project costs.</p> |
| Equipment | ALL | <p>Unallowable for acquisition costs of general purpose equipment or lease agreements to own (i.e., lease-to-own or rent-to-own).</p> <p>Allowable for rental costs of general purpose equipment. Vehicles may be leased but not purchased. The lease or rental agreement must terminate at the end of the grant cycle.</p> <p>For vehicle and equipment leases or rentals with an acquisition cost that equals or exceeds \$5,000, rates should be in light of factors such as: rental costs of comparable vehicles and equipment, if any; market conditions in the area; alternatives available; and the type, life expectancy, condition, and value of the vehicle or equipment leased.</p> <p>Allowable for acquisition costs and rental costs of special purpose equipment provided the following criteria is met:</p> <ol style="list-style-type: none"> 1) Necessary for the research, scientific, or other technical activities of the grant agreement; 2) Not otherwise reasonably available and accessible; 3) The type of equipment is normally charged as a direct cost by the organization; 4) Acquired in accordance with organizational practices; 5) Must be used solely to meet the legislative purpose of the grant program and objectives of the grant agreement; 6) More than one single commercial organization, commercial product, or individual must benefit from the use of the equipment; |

| | | |
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| | | <p>7) Must not use special purpose equipment acquired with grant funds to provide services for a fee to compete unfairly with private companies that provide equivalent services; and</p> <p>8) Equipment is subject to the full range of acquisition, use, management, and disposition requirements under 2 CFR § 200.313 as applicable.</p> <p>Definitions</p> <p>Equipment is defined as tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost that equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or \$5,000.</p> <p>Acquisition cost means the cost of the asset including the cost to prepare the asset for its intended use. Acquisition cost for equipment is the net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for its acquired purpose.</p> <p>General Purpose Equipment means equipment that is not limited to technical activities. Examples include office equipment and furnishings, modular offices, telephone networks, information technology equipment and systems, air conditioning equipment, reproduction and printing equipment, and motor vehicles.</p> <p>Special Purpose Equipment is equipment used only for research, scientific, or technical activities.</p> |
| Equipment – Information Technology Systems | ALL | <p>Unallowable for information technology systems having a useful life of more than one year and a per-unit acquisition cost that equals or exceeds the lesser of the capitalization level established in accordance with GAAP by the recipient for financial statement purposes or \$5,000. Acquisition costs for software includes those development costs capitalized in accordance with GAAP.</p> <p>Information technology systems include computing devices, ancillary equipment, software, firmware, and similar procedures, services (including support services), and related resources. Computing devices means machines used to acquire, store, analyze, process, and publish data and other information electronically, including accessories (or “peripherals”) for printing, transmitting and receiving, or storing electronic information. Examples of unallowable information technology systems include service contracts, operating systems, printers, and computers that have an acquisition cost of \$5,000 or more.</p> <p>Allowable for website development, mobile apps, etc., that are not considered to be information technology systems, but rather social media applications.</p> |
| Farm, Gardening, and Production Activities and Supplies | All with exceptions | <p>Allowable for farm, gardening, and production activities, materials, supplies, and other related costs including but not limited to soil, seeds, shovels, gardening tools, greenhouses, and hoop houses unless it is explicitly <u>prohibited</u> by the grant program application documents.</p> |
| Fines, Penalties, Damages and Other Settlements | ALL | <p>Unallowable for costs resulting from violations of, alleged violations of, or failure to comply with, Federal, state, tribal, local or foreign laws and</p> |

| | | |
|--|-----------------------------------|---|
| | | regulations. |
| Fixed Amount Subawards | <i>ALL with exceptions</i> | <i>Unallowable</i> for cost related to fixed amounts subawards. <i>Allowable</i> to meet the requirements of the sponsored program (noncompetitive) and with prior written approval. A pass-through entity may provide subawards based on fixed amounts up to the Simplified Acquisition Threshold, provided that the subawards meet the requirements for fixed amount awards in 2 CFR § 200.201 . |
| Fundraising and Investment Management Costs | <i>ALL</i> | <i>Unallowable</i> for organized fundraising, including financial campaigns, solicitation of gifts and bequests, and similar expenses incurred to raise capital or obtain contributions, regardless of the purpose for which the funds will be used. This includes salaries of personnel involved in activities to raise capital. |
| General Costs of Government | <i>ALL</i> | <i>Unallowable</i> for: <ol style="list-style-type: none"> 1) Salaries and expenses of the Office of the Governor of a State or the chief executive of a local government or the chief executive of an Indian tribe; 2) Salaries and other expenses of a State legislature, tribal council, or similar local governmental body, such as a county supervisor, city council, school board, etc., whether incurred for purposes of legislation or executive direction; 3) Costs of the judicial branch of a government; 4) Costs of prosecutorial activities unless treated as a direct cost to a specific program if authorized by statute or regulation (however, this does not preclude the allowability of other legal activities of the Attorney General as described in § 200.435 Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements); and 5) Costs of other general types of government services normally provided to the general public, such as fire and police, unless provided for as a direct cost under a program statute or regulation. |
| Goods or Services for Personal Use | <i>ALL</i> | <i>Unallowable</i> for costs of goods or services for personal use of the recipient's employees regardless of whether the cost is reported as taxable income to the employees. |
| Indirect Costs – Unrecovered | <i>ALL with exceptions</i> | <i>Unallowable</i> for unrecovered indirect costs. <i>Allowable</i> for projects with match requirements to use unrecovered indirect costs as part of cost sharing or matching. Unrecovered indirect cost means the difference between the amount charged to the Federal award and the amount that could have been charged to the Federal award under the potential recipient's approved negotiated indirect cost rate. |
| Insurance and Indemnification | <i>ALL</i> | <i>Allowable</i> as indirect costs for insurance and indemnification. |
| Lobbying | <i>ALL</i> | <i>Unallowable</i> as defined in 2 CFR § 200.450 . |
| Meals | <i>ALL</i> | <i>Unallowable</i> for business meals when individuals decide to go to lunch or dinner together when no need exists for continuity of a meeting. |

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| | | <p>Such activity is considered an entertainment cost.</p> <p>Unallowable for conference attendee breakfasts. It is expected attendees will have adequate time to obtain this meal on their own before a conference begins.</p> <p>Unallowable for meal costs that duplicate a meeting participant’s per diem or subsistence allowances.</p> <p>Allowable for lunch or dinner meals if the costs are reasonable and a justification is provided that such activity maintains the continuity of the meeting, and to do otherwise will impose arduous conditions on the meeting participants.</p> <p>Allowable for meals consumed while in official travel status. They are considered per diem expenses and should be reimbursed in accordance with the organization’s established written travel policies.</p> |
| Memberships, Subscriptions, and Professional Activity Costs | ALL | <p>Unallowable for costs of membership in any civic or community organization.</p> <p>Allowable for costs of membership in business, technical, and professional organizations.</p> |
| Organization Costs | ALL | <p>Unallowable for costs of investment counsel and staff and similar expenses incurred to enhance income from investments.</p> <p>Allowable with prior approval for organization costs per 2 CFR § 200.455.</p> |
| Participant Support Costs | ALL | <p>Allowable for such items as stipends or subsistence allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with approved conferences, training projects, surveys, and focus groups.</p> |
| Political Activities | ALL | <p>Unallowable for development or participation in political activities in accordance with provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and §§ 7324-7326).</p> |
| Pre-Award Costs | ALL | <p>Allowable if such costs are necessary for efficient and timely performance of the project’s scope of work. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the Federal award.</p> <p>A recipient may incur pre-award costs 90 calendar days before the award. Expenses more than 90 calendar days pre-award require prior approval. These costs and associated activities must be included in the recipient’s project narrative and budget justification. All costs incurred before the award are at the potential recipient’s risk. The incurrence of pre-award costs in anticipation of an award imposes no obligation on AMS to award funds for such costs.</p> |
| Printing and Publications | ALL | <p>Allowable to pay the cost of preparing informational leaflets, reports, manuals, and publications relating to the project; however, the printing of hard copies is discouraged given the prevalence of electronic/virtual publication means.</p> |
| Rearrangement and Reconversion Costs | ALL | <p>Allowable as indirect costs incurred for ordinary and normal rearrangement and alteration of facilities.</p> <p>Allowable as direct costs with prior approval for special arrangements and alterations costs incurred specifically for the award.</p> <p>Rearrangement and reconversion costs are those incurred in restoring or rehabilitating the non-Federal entity’s facilities to approximately the</p> |

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| | | same condition existing immediately before the start of the grant agreement, less costs related to normal wear and tear. |
| Salaries and Wages | ALL | <p>Allowable as part of employee compensation for personnel services in proportion to the amount of time or effort an employee devotes to the grant-supported project or program during the period of performance under the Federal award, including salaries, wages, and fringe benefits. Such costs must be incurred under formally established policies of the organization, be consistently applied, be reasonable for the services rendered, and be supported with adequate documentation. Salary and wage amounts charged to grant-supported projects or programs for personal services must be based on an adequate payroll distribution system that documents such distribution in accordance with generally accepted practices of like organizations. Standards for payroll distribution systems are contained in the applicable cost principles (other than those for for-profit organizations).</p> <p>Unallowable for salaries, wages and fringe benefits for project staff who devote time and effort to activities that do not meet the legislated purpose of the grant program.</p> |
| Selling and Marketing Costs – Promotion of an Organization’s Image, Logo, or Brand Name | ALL | <p>Unallowable for costs designed solely to promote the image of an organization, a general logo, or a general brand.</p> <ul style="list-style-type: none"> Promotional items could say “Buy STATE/COUNTY Grown Apples” but not “XYZ Grown”, which promotes XYZ generically. A promotional campaign to increase producer sales of “STATE/COUNTY Grown fruits and vegetables” is acceptable while increasing membership in “STATE/COUNTY Grown” generally is not. |
| Selling and Marketing Costs – Promotion of Venues that do not Align with Grant Program Purpose | ALL | Unallowable for costs for promotion of specific venues, tradeshows, events, meetings, programs, conventions, symposia, seminars, etc. that do not align with the legislated purpose of the grant program. |
| Selling and Marketing Costs – Promotional Items, Gifts, Prizes, etc. | ALL with exceptions | <p>Unallowable for promotional items, swag, gifts, prizes, memorabilia, and souvenirs.</p> <p>Allowable with conditions to meet the requirements of the sponsored agreement, in the approved application or with prior approval for marketing activities directly related to the funded project. Promotional items include point-of-sale materials, promotional kits, signs or streamers, automobile stickers, table tents, and place mats, or promotional items of a personal nature (e.g., t-shirt, hats, etc.).</p> |
| Selling and Marketing Costs – Coupons, Incentives or Other Price Discounts | ALL | <p>Unallowable for costs of the value of coupon/incentive redemptions or price discounts (e.g., the \$5.00 value for a \$5.00 clip-out coupon).</p> <p>Allowable for costs associated with printing, distribution, or promotion of coupons/tokens or price discounts (e.g., a print advertisement that contains a clip-out coupon) as long as they benefit more than a single program or organization.</p> |
| Selling and Marketing Costs – Food for Displays, Tastings, Cooking Demonstrations | ALL with exceptions | Unallowable for purchasing food for displays, tastings, and cooking demonstrations except for projects that have a programmatic purpose and are authorized either in the approved application or with prior |

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| | | written approval. |
| Selling and Marketing Costs – General Marketing Costs | ALL with exceptions | Unallowable for costs designed solely to promote the image of an organization, general logo, or general brand. Allowable for costs designed to promote products that align with the purpose of the grant program. |
| Selling and Marketing Costs – Sponsorships | ALL | Unallowable for costs associated with sponsorships. A sponsorship is a form of advertising in which an organization uses grant funds to have its name and/or logo associated with certain events and where the organization does not necessarily know how the funds associated with sponsorship costs will be used. These costs also benefit only the organization offering funding, limiting the beneficiaries to the sponsor organization. |
| Selling and Marketing Costs – Use of Meeting Rooms, Space, Exhibits that do not Align with Grant Program Purpose | ALL | Unallowable for costs associated with trade show attendance/displays, meeting room reservations, and/or any other displays, demonstrations, exhibits, or rental of space where activities do not specifically align with the purpose of the grant program. See Conferences for more information. |
| Supplies and Materials, Including Costs of Computing Devices | ALL | Allowable for costs incurred for materials, supplies, and fabricated parts necessary to carry out a Federal award. Purchased materials and supplies must be charged at their actual prices, net of applicable credits. Withdrawals from general stores or stockrooms should be charged at their actual net cost under any recognized method of pricing inventory withdrawals, consistently applied. Incoming transportation charges are a proper part of materials and supplies costs. Only materials and supplies used for the performance of a Federal award may be charged as direct costs. A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the recipient for financial statement purposes or \$5,000, regardless of the length of its useful life. In the specific case of computing devices, charging as direct cost is allowable for devices that are essential and allocable, but not solely dedicated, to the performance of a Federal award. Where Federally donated or furnished materials are used in performing the Federal award, such materials will be used without charge. |
| Training | ALL | Allowable when the training is required to meet the objectives of the project or program, including training that is related to Federal grants management. |
| Travel – Domestic and Foreign | ALL | Allowable for travel, with prior approval and when costs are limited to those allowed by formal organizational policy and the purpose aligns with the legislated purpose of the program. The allowable travel cost of recipients that do not have formal travel policies and for-profit entities may not exceed those established by the Federal Travel Regulation, issued by General Services Administration (GSA) , including the maximum per diem and subsistence rates prescribed in those regulations. If a recipient does not have a formal travel policy, those regulations will be used to determine the amount that may be charged for travel costs. |

9.0 CHANGES REQUIRING PRIOR WRITTEN APPROVAL

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

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

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

9.1 Change in Key Personnel/Time Devoted to the Project

Prior approval is required for changes in key personnel or if key personnel disengages from the project for a period of more than 3 months, reduces the time devoted to managing the project by 25 percent (25%) or more, or severs his/her connection to the activities of the grant agreement. Key personnel include the recipient project coordinator or AOR listed in the AMS-33 as well as other key project contributors. The request must include:

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

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

9.2 Change in Scope or Objectives

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

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

1. A description of the change in the scope or objective including what activities the new work replaces;
2. A revised narrative for the relevant portion of the approved project; and
3. The proposed dates of implementation (MM/YYYY – MM/YYYY).

A change in scope or objectives may affect the project narrative, outcome measures, budget (Federal and matching funds), or timeline. If it does, the recipient must make revisions and include this in their request by following the applicable guidance in this section.

9.3 One-Time Extension

If the grant activities cannot be completed within the grant agreement's period of performance, the recipient must request written approval to extend the grant agreement's end date (no-cost extension of time) prior to the grant's expiration. The recipient may request a one-time extension of the period of performance of up to 12 months from the end date of the period of performance (block 15 of AMS-33 Grant Agreement Face Sheet) unless specific program requirements prohibit the extension beyond the maximum allowed period of performance. The request must be submitted no later than 10 days prior to the ending date of the grant agreement. The request must include:

1. The length of additional time requested, and the new ending date requested;
2. A justification for the extension;

3. A summary of progress to date in terms of the project timeline and objectives. The summary may reference the most recent Performance Report and indicate how circumstances have changed since then;
4. An estimate of the amount of remaining funds, and if applicable, the amount of matching resources yet to be expended, and a description of how they will be used in the remaining time; and
5. A new timetable for completing the project.

Unutilized or unobligated funds at the end of the award is not in itself justifiable to receive a no-cost time extension. AMS will approval extensions on a case-by-case basis, based on the written justification provided.

9.4 Budget Change

Prior approval is required for a budget change if the Federal share of its grant agreement exceeds the Simplified Acquisition Threshold as stated in [2 CFR § 200.88](#), (see block 16 on the AMS-33 Grant Agreement Face Sheet for the Federal award amount) and the cumulative amount of a transfer among budgeted direct cost categories or between individual subawards exceeds or is expected to exceed 10 percent of the total Federal award budget as last approved by AMS. If the Federal share of the Federal award is less than the Simplified Acquisition Threshold, recipients do not need to request prior approval for budget changes. The request must include:

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

9.5 Pre-Award Costs

As defined in [2 CFR §200.458](#), pre-award costs are costs incurred prior to the effective date of the Federal award directly pursuant to the negotiation and in anticipation of the Federal award where such costs are necessary for efficient and timely performance of the scope of work. Refer to [Pre-Award Costs](#) for more information. The request must include:

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

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

Prior approval is required for a change that involves subawarding, transferring, or contracting out of any work under a Federal award or executing a fixed amount subaward. This provision does not apply to the acquisition of supplies, materials, equipment, or general support services. The request must include:

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

9.7 Specific Allowable Costs Prior Approvals

Prior approval is required for allowable costs that were not included in the approved project and/or the latest budget. See [8.2 Allowable and Unallowable Costs and Activities](#) for more information on these costs. The request must include:

- A description of and justification for the cost including how it furthers the objectives of the project; and

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

9.8 Changes to Recipient Name or Address

If the recipient is contemplating changing the name or address of the recipient organization, the recipient is advised to contact its AMS representative for additional information on how this action may affect the award. This is a change to the recipient organization in block 12, “Recipient” on the fully executed AMS-33 Grant Agreement Face Sheet. In this case, the DUNS number would remain the same, while only the organization name or address would change. Recipients are responsible for properly updating their registration within both DUNS and SAM.gov. The recipient must inform AMS of any pending changes in its legal status, divestiture, or bankruptcy.

The request must include the new name or address of the recipient organization and the effective date of change.

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

9.9 Cost Share or Match – Changes in the Amount

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

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

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

10.0 PERFORMANCE AND FINANCIAL REPORTS

AMS requires submission of interim and final reports to demonstrate the progress made toward the completion of project goals, objectives, and outcomes as well as the grant agreement’s overall financial status. Performance reports must be formatted and submitted using the approved templates or guidance. Recipients are required to submit an [Federal Financial Report \(SF-425\)](#) with each performance report to account for their financial expenditures during that reporting period.

All performance and financial reports must be submitted through ezFedGrants. The required report template and the SF-425 Federal Financial Report, along with instructions and a sample financial report, can be found at www.ams.usda.gov/grants. Click on the applicable grant program website, and then click on “How to Administer the Award” in the left menu bar.

If a grant agreement must be extended beyond the performance period stated on the Award Agreement (AMS-33), additional reports may be necessary depending on the length of the extension.

If performance or financial reports are prepared by a third party and/or subrecipient, it is the recipient AOR responsibility to review and approve the report before forwarding it to AMS.

10.1 Interim Performance and Financial Reports

The SF-425 and interim performance report are due **annually** no later than 90 calendar days after each annual performance reporting period (block 15 of the AMS-33 Grant Agreement Face Sheet) end date.

If the recipient completes the grant early, they may submit a Final Performance Report in lieu of an interim performance report.

10.2 Final Performance and Financial Reports

A final performance report and SF-425 are required to be submitted no later than 90 calendar days after the performance period expiration date (block 15 of the AMS-33 Grant Agreement Award Face Sheet).

10.3 Review of Performance and Financial Reports

AMS will confirm receipt of performance and financial reports. These reports will be reviewed to ensure completeness and progress toward meeting the project goals and measurable outcomes as well as compliance with Federal assistance regulations. AMS will notify the recipient project coordinator if additional information is required. The recipient project coordinator is responsible for adequately addressing all comments and questions prior to sending the revised report(s).

10.4 Public Access to Performance Reports and Information on Report Content

Accomplishments, procedures, and other benefits resulting from the Federally funded project may be made available publicly through online posting, as well as through [Freedom of Information Act \(FOIA\)](#) requests. The AMS website is the primary means to distribute results of each Federal award, although additional proposal/project information, within the regulations, will be released if requested under the FOIA.

Requested information may be made public, so AMS encourages the recipient to minimize grammatical and spelling errors in submitted forms and materials. AMS will not edit the reports beyond ensuring that the content is complete.

10.5 Disparaging Language and Protected PII

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

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

10.6 Overdue Reports

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

11.0 ACKNOWLEDGEMENT OF SUPPORT

Recipients are strongly encouraged to acknowledge USDA-AMS support through oral or written presentation. If the recipient chooses to add an acknowledgement of support, it must read as follows:

Funding for [Project or Publication] was made possible by the U.S. Department of Agriculture's (USDA) Agricultural Marketing Service through grant [Insert Agreement Number]. Its contents are solely the responsibility of the authors and do not necessarily represent the official views of the USDA.

Note that USDA symbols or logos are only intended for [the official use of the USDA](#). They are expressly excluded from use to imply endorsement of a commercial product or service. The symbol or logo may not be used by anyone outside of USDA without permission.

Recipients are strongly encouraged to share with AMS success stories, videos, pictures and other materials that highlight outcomes and accomplishment of their grant agreement. AMS will coordinate any public announcement, press release, press interviews, web or social posting with the AMS Public Affairs Office.

12.0 PROPERTY MANAGEMENT

The title to equipment and supplies acquired by the recipient under the award will vest, upon acquisition, in the recipient. Recipients must provide the equivalent insurance coverage for equipment acquired with Federal funds.

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

12.1 Disposition of Equipment and Supplies

If the **equipment** has a per-unit fair market value of less than \$5,000, and it is no longer needed for the original project or program or for other activities currently or previously supported by a Federal awarding agency, the recipient may retain, sell, or dispose of equipment with no further obligation to AMS.

If the **equipment** has a per-unit fair market value of \$5,000 or more, and it is no longer needed for the original project or program or for other activities currently or previously supported by a Federal awarding agency, the recipient may retain the equipment and supplies, or they may be sold.

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

In any of these cases, the recipient acting on its own behalf or as the pass-through entity must complete a:

- Tangible Personal Property Report Disposition Request/Report ([SF-428-C](#)) during the period of performance or
- Tangible Personal Property Final Report ([SF-428-B](#)) at the grant agreement's closeout.

Email this report to AMS as a written disposition request/report. A sample Tangible Personal Property Final Report can be found on the applicable grant program's website. Go to <https://www.ams.usda.gov/services/grants>, click on the applicable grant program website, and then click on "How to Administer the Award" in the left menu bar.

AMS will review the request and provide disposition instructions for the equipment and/or supplies. The disposition instructions will notify the recipient that AMS is entitled to an amount calculated as follows:

AMS Amount = Current Market value or proceeds from sale of the equipment/supplies

X Percentage of AMS participation in the cost of the original purchase

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

13.0 ADMINISTRATIVE AND NATIONAL POLICY REQUIREMENTS

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

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

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

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

[2 CFR § 175](#) – *Award Term for Trafficking in Persons*

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

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

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

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

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

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

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

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

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

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

[7 CFR § 1\(b\)](#) – *National Environmental Policy Act*

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

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

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

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

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

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

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

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

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

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

44 U.S.C. § 3541 et seq. ([P.L. 107-347](#)) – *Federal Information System Security Management Act of 2002 (FISMA)*

[EO 13166](#), *Improving Access to Services for Persons with Limited English Proficiency*, take reasonable steps to ensure that LEP

persons have meaningful access to programs in accordance with [LEP Implementation Strategy for AMS' Federally-Assisted Programs](#).

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

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

14.0 CLOSEOUT

The recipient and AMS will close out the Federal award when all applicable administrative actions and required work are completed, as provided in [2 CFR § 200.343](#). When an award is closed out, terminated or partially terminated, the recipient is responsible for compliance with the requirements in [2 CFR § 200.344](#).

The recipient must submit, no later than 90 calendar days after the grant end date, all documents as required by these award terms and conditions.

14.1 Closeout Checklist

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

1. Final Performance Report (see [Section 10.2](#)) and any project deliverables (e.g., photos, brochures, other print materials from the project);
2. *Final* Federal Financial Report (SF-425) ([Section 10.2](#));
3. Request for *Final* Advance Payment or Reimbursement (SF-270) (see [Section 4.2](#) and subsections);
4. If applicable, a refund check for any unused funds (see [Section 14.2](#));
5. If applicable, Tangible property report ([SF-428 B](#)) (see [Section 12.1](#)); and
6. Audit report (see [Section 2.1](#)) (if applicable)

Requirements for Reapplication

Upon receiving and accepting all closeout documents, AMS will issue a closeout letter. Failure to submit acceptable closeout materials for an existing grant within 90 calendar days following the grant ending date may result in exclusion from future AMS grant consideration.

14.2 Unused and Returned Funds

Before submitting an SF-425 for a grant that has been completed or terminated, the recipient must liquidate all obligations not later than 90 calendar days after the performance period end date of the grant agreement. If the recipient has a balance of funds that AMS disbursed previously and the recipient did not obligate by the performance end date of the grant agreement, the recipient must return these funds to AMS. AMS's request to return an unobligated balance following expiration or termination of a grant is not considered an adverse action and is not subject to appeal.

Return the funds payable by check to the "Agricultural Marketing Service." Because packages sent to AMS through the United States Postal Service may be damaged or delayed due to security procedures at USDA Washington, D.C. headquarters, the use of express mail or courier services is strongly encouraged.

Send payments by Express mail or courier submission to:

[Grant Program Name]
Attn: [Grant Program Name] Team Lead
USDA, Agricultural Marketing Service
1400 Independence Avenue, SW
Room 4543–South Building
Stop 0264
Washington, DC 20250-0264

15.0 RECORD RETENTION

The recipient must retain all records relating to the grant for a period of three years after the final SF-425 is received by AMS or until final resolution of any audit finding or litigation. See [2 CFR § 200.333](#) for exceptions and qualifications to the retention requirement and period for other types of grant-related records, including property records.

In accordance with [Executive Order 13642 Making Open and Machine Readable the New Default for Government Information](#), the recipient should, whenever practicable, collect, transmit, and store grant-related information in electronic formats rather than paper.

16.0 ACCESS TO RECORDS

As described in [2 CFR § 200.336](#), AMS, Inspectors General, the Comptroller General of the United States, and the pass-through entity, or any of their authorized representatives, shall have the right of access to any pertinent documents, papers, or records of recipients and subrecipients which that are pertinent to the award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the recipient's and subrecipient's personnel for interview and discussion related to such documents.

17.0 REMEDIES FOR NONCOMPLIANCE

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

The recipient may be given an opportunity to correct the deficiencies before AMS takes enforcement action; however, AMS may take proactive steps to protect the Federal government's interests, including placing special conditions on awards in accordance with [2 CFR § 200.338](#) such as requiring more frequent reporting or requiring the recipient to obtain technical or management assistance.

17.1 Disallow Costs

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

17.2 Withdrawal of Authorized Personnel Approval

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

17.3 Withholding of Payments

AMS may temporarily withhold cash payments pending correction of the deficiency by the recipient, in accordance with [2 CFR § 200.205](#). This decision is discretionary on the part of AMS and not subject to appeal.

17.4 Withholding of Support

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

17.5 Suspension or Termination

AMS generally will suspend (rather than immediately terminate) a grant and allow the recipient an opportunity to take appropriate corrective actions before terminating a grant agreement. AMS may terminate the grant if the recipient does not take appropriate corrective actions during the period of suspension. AMS may also terminate the grant without first

suspending if the deficiency warrants immediate termination or if public health or welfare concerns require immediate action. AMS will provide the recipient a notice of termination that includes the reason(s) for the termination and if the decision will be considered in evaluating future applications.

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

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

17.6 Special Conditions for High-Risk Recipients

AMS will evaluate the degree of risk associated with a given recipient and may impose additional award conditions per [2 CFR § 200.205\(b\)](#) on the recipient that correspond to the degree of risk assessed. This risk assessment may incorporate results of the evaluation of the applicant's eligibility or the quality of its application. These specific award conditions are specified in [2 CFR § 200.207](#). AMS will promptly remove any special conditions once the conditions that prompted them have been corrected.

18.0 SITE VISITS

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

19.0 APPEALS

The recipient may appeal an AMS decision to remedy non-compliance by submitting a written request for review to the Federal Agency Project contact, identified in block 13 of the AMS-33 Grant Agreement Face Sheet, unless directed otherwise. The appeal letter must explain the decision or action it is appealing, describe what happened, and include any documentation that substantiates the appeal. AMS will review the notification and respond within 30 calendar days.

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

20.0 LIMIT OF FEDERAL LIABILITY

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

21.0 FRAUD, WASTE, AND ABUSE

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

Mail: United States Department of Agriculture
Office of the Inspector General
PO Box 23399
Washington, DC 20026-3399
Telephone: 1-800-424-9121 (toll free) or 202-690-1202 (TDD)
Fax: 202-690-2474
Email: usda_hotline@oig.usda.gov
Website: <http://www.usda.gov/oig/hotline.htm>

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

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

22.0 PROHIBITION OF CONFIDENTIALITY AGREEMENTS

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

- (a) The recipient may not require its employees, contractors, or subrecipients seeking to report fraud, waste, or abuse to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting them from lawfully reporting that waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal Department or Agency authorized to receive such information.
- (b) The recipient must notify its employees, contractors, or subrecipients that the prohibitions and restrictions of any internal confidentiality agreements inconsistent with paragraph (a) of this award provision are no longer in effect.
- (c) The prohibition in paragraph (a) of this award provision does not contravene requirements applicable to any other form issued by a Federal department or Agency governing the nondisclosure of classified information.
- (d) If the Government determines that the recipient is not in compliance with this award provision, it:
 - (1) Will prohibit the recipient's use of funds under this award, in accordance with sections 743, 744 of Division E of the Consolidated Appropriations Act, 2016, (Pub. L. 114-113) or any successor provision of law; and
 - (2) May pursue other remedies available for the recipient's material failure to comply with award terms and conditions.

23.0 PAPERWORK REDUCTION

According to the Paperwork Reduction Act of 1995, an Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0240. The time required to complete this information collection is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

24.0 NONDISCRIMINATION STATEMENT

USDA is an equal opportunity provider, employer, and lender.