

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

**TERMS AND CONDITIONS
SMALL BUSINESS INNOVATION RESEARCH GRANTS PROGRAM
TABLE OF CONTENTS**

<u>Article</u>	<u>Subject</u>	<u>Article</u>	<u>Subject</u>
1.	Applicable Regulations	14.	Data Collection
2.	Definitions	15.	Project-related Income
3.	Administrative Waivers	16.	Release of Information
4.	Prior Approval Requirements	17.	Sharing of Findings, Data, and Other Project Products
5.	Unallowable Costs	18.	Patents, Inventions and Copyrights
6.	Limit of Federal Liability	19.	Genome Map and Sequence Data Disclosure
7.	Payments	20.	Possession, Use, and Transfer of Biological Agents or Toxins
8.	Financial Reporting	21.	Laboratory Security
9.	Performance Monitoring	22.	Research Misconduct
10.	Current Research Information System (CRIS)/ REEport Requirements for Phase II Awards	23.	Trafficking in Persons
11.	Commercialization Assistance Training Program	24.	Recordkeeping
12.	Acknowledgment of Support and Disclaimer	25.	Award Closeout
13.	Nonexpendable Equipment	26.	Reporting Subawards and Executive Compensation
		27.	Central Contractor Registration and Universal Identifier Requirements

1. APPLICABLE REGULATIONS

a. Administrative Provisions - This award, and subawards at any tier under this award, shall be governed to the extent applicable by the provisions of 7 CFR 3015, “Uniform Federal Assistance Regulations,” 7 CFR Part 3016, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,” 7 CFR Part 3019, “Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Non-profit Organizations,” 7 CFR Part 3052, “Audit of States, Local Governments, and Non-profit Organizations,” and 7 CFR 3403, “Small Business Innovation Research Grants Program.”

The Code of Federal Regulations is accessible through the [National Archives and Records Administration](#).

b. Federal Cost Principles - Allowable costs will be determined in accordance with the applicable program legislation, the purpose of the grant award, the terms and conditions for the grant award as contained herein, and by the following Federal cost principles that are applicable to the type of organization receiving the award, regardless of the type of award or tier (i.e., prime awardee, subaward) as are in effect at the time of the award:

- (1) **2 CFR Part 220** (OMB Circular No. A-21), “Cost Principles for Institutions of Higher Education.”
- (2) **2 CFR Part 225** (OMB Circular No. A-87), “Cost Principles for State and Local Governments (including certain Indian tribal governments).”
- (3) **2 CFR Part 230** (OMB Circular No. A-122), “Cost Principles for Nonprofit Organizations” other than institutions of higher education (nonprofit organizations excluded from coverage are listed in Attachment C of OMB Circular No. A-122).

A complete list of current OMB Circulars can be found on the [White House Web site](#).

(4) **Federal Acquisition Regulations** (48 CFR Subpart 31.2), “Principles for determining costs with profitmaking firms and those nonprofit organizations that are specifically excluded from the provisions of OMB Circular No. A-122.”

(5) **45 CFR Part 74, Appendix E**, “Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals.”

The Code of Federal Regulations is accessible through the [National Archives and Records Administration](#).

2. DEFINITIONS

- a. **Authorized Departmental Officer (ADO)** - the individual, acting within the scope of delegated authority, who is responsible for executing and administering awards on behalf of the U.S. Department of Agriculture. The ADO is the individual who is identified and whose signature appears at the bottom of the Award Face Sheet, Form NIFA-2009. ADO address, telephone, and facsimile numbers are as follows:

Awards Management Division
Office of Grants and Financial Management
National Institute of Food and Agriculture
U.S. Department of Agriculture
STOP 2271
1400 Independence Avenue, S.W.
Washington, D.C. 20250-2271
Telephone: (202) 401-4986
Facsimile: (202) 401-1804

- b. **Authorized Representative (AR) (otherwise called the “AOR,” Authorized Organizational Representative)** - the individual who is authorized to commit the awardee's time and other resources to the project, to commit the awardee to comply with the terms and conditions of the award instrument including those set out herein, and to otherwise act for or on behalf of the awardee institution, organization, or other entity.
- c. **Awardee** - the small business receiving financial assistance directly from Federal awarding agencies to carry out a project or program.
- d. **Project Director (PD)/Principal Investigator (PI)** - the individual designated by the awardee in the award application and approved by the National Institute of Food and Agriculture (NIFA) who is responsible for the direction and management of the project.
- e. **Program Point of Contact (otherwise called the “NPL,” National Program Leader)** - a NIFA individual who is responsible for the technical oversight of the award on behalf of the USDA (the individual is identified in Block 14. of the Award Face Sheet (Form NIFA-2009)).
- f. **Administrative Point of Contact** – a NIFA individual who is responsible for the administrative oversight of the award on behalf of the USDA (the individual is identified in Block 14. of the Award Face Sheet (Form NIFA-2009)).

3. ADMINISTRATIVE WAIVERS

In accordance with 3019.25(e) of the Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Non-Profit Organizations, and as applied to awards to commercial organizations, NIFA is exercising its option and is waiving prior written approval (i.e., recipients need not obtain such prior approval(s)) for the following situation for all awards to which these terms and conditions apply.

- a. Pre- award costs. The PD may incur pre-award costs within the 90-day period immediately preceding the effective date of the award providing: the approval of pre-award spending is made and documented in accordance with the awardee's normal procedures prior to the incurrence of the cost(s); the advanced funding is necessary for the effective and economical conduct of the project; and the costs are otherwise allowable. Pre-award expenditures are made at the awardee's risk. AR authority to approve pre-award costs does not impose an obligation on NIFA: (1) in the absence of appropriations; (2) if an award is subsequently not made; or (3) if an award is made for a lesser amount than the awardee expected.

Pre-award costs incurred outside the 90-day period immediately preceding the effective date of the award must receive written approval from the ADO. Refer to Article 5. for instructions on how to request approval.

- b. The AR may make allowable budget changes, and other required administrative prior approvals except those which change the scope or objectives of the award, change key personnel, create a need for additional funding, or are specifically prohibited by the terms and conditions of the award. In addition, where a statutory prohibition exists the awardee may not approve such costs.

4. PRIOR APPROVAL REQUIREMENTS

The following are the most common situations requiring prior approval. However, the awardee is bound by any other prior approval requirements of the applicable administrative provisions and Federal cost principles (see Article 1.) **All prior approval requests must be signed or countersigned by the AR and PD/PI and should be submitted to the applicable ADO address or facsimile number identified in Article 2.a.**

Scope or Objectives

When it is necessary to modify the scope or objectives of the award, the AR shall submit to the ADO a justification for the change along with the revised scope or objectives of the award. The request should contain the following:

1. Include the grant number and proposal number;
2. Provide a narrative explaining the requested modification to the project objectives/scope;
3. Provide a description of the revised objectives/scope
4. Signatures of the AR and/or the Project Director must be on the letter.
5. Send the letter to the ADO for timely processing as identified in Article 2.a of these terms and conditions.

Change Key Personnel

When it is necessary to change key personnel, the AR shall submit a written request to the ADO to replace the key personnel. The request should contain the following:

1. Include the grant number and proposal number;
2. Narrative explaining the need for the personnel change;
3. The request should contain a copy of the new individual's curriculum vita and
4. Signature of the proposed replacement signifying his/her willingness to serve on the project.
5. Signatures of the AR and/or the Project Director must be on the letter.
6. Send the letter to the ADO for timely processing as identified in Article 2.a of these terms and conditions.

Subcontractual Arrangements

Total funds for subcontracting/consulting may not normally exceed one-third of the research or analytical effort as determined by budget expenditures during a Phase I project and one-half of the research or analytical effort as determined by budget expenditures during a Phase II project. Consulting fees are normally limited to the equivalent of the Senior Executive Service Level IV salary (see <http://www.opm.gov/oca/10tables/index.asp> for Rates of Pay for Executive Schedule). Prior written approval of the ADO is required for any subcontract awarded 1) whereby work is to be performed outside of the United States, 2) for an amount in excess of the noted subcontractual limitations, or 3) for consultant fees exceeding a Senior Executive Service Level IV salary.

To request authorization from the ADO for 1) and 2) noted above, the AR shall submit to the ADO the following:

1. Include the grant number and proposal number;
2. Provide a narrative explaining the proposed subcontractual arrangements;
3. Provide a statement of work to be performed;
4. Include a detailed budget;
5. Provide a budget narrative for the subcontract
6. Signatures of the AR and/or the Project Director must be on the letter.
7. Provide a letter of collaboration/intent signed by the subcontractor's AR.
8. Send the letter to the ADO for timely processing as identified in Article 2.a of these terms and conditions. Subcontractual arrangements that are disclosed in the proposal or modifications thereto do not require additional post-award approval unless language in the award specifically states otherwise.

To request authorization from the ADO for 3) noted above, the AR shall submit justification for exceeding the Senior Executive Service Level IV salary to the ADO.

The awardee is responsible, without recourse to NIFA, regarding the settlement and satisfaction of all contractual and legal issues arising out of contracts, grants, or other instruments entered into between the awardee and third parties to carry out approved project

activities. Matters concerning violation of law should be referred to the Federal, State, or local authority having proper jurisdiction.

Subcontractors/consultants must obtain prior written **university** or Federal facility approval to use or work in university or Federal facility as a subcontractor/consultant under a SBIR award.

Consulting Services

If the use of consultant services becomes necessary during project performance, the awardee may enter into appropriate arrangements as needed to obtain such services provided that:

- a. The use of a consultant or consultants does not constitute the transfer of substantive programmatic work requiring prior approval; or
- b. The awardee does not propose to pay a consulting fee to one of its own employees.

Where one of these conditions exists and the consulting services are not a part of the approved budget, the awardee shall seek and document approval in accordance with the awardee's normal procedures. The documentation should include a justification, performance statement, rate of pay and a vitae.

Federal employees may provide consulting services to the awardee or to a subrecipient as required to achieve project objectives and may be compensated for their services provided that such services are performed outside of their official duty hours or while they are in leave status and provided also that they receive approval from their respective agencies prior to rendering these services. Under no circumstances may employees of NIFA receive compensation under a NIFA-supported project, regardless of tier.

Equipment

Any budgetary change resulting in a cumulative amount of equipment to exceed or is expected to exceed 10% of the total budget as last approved by NIFA, such a change requires prior ADO approval. To request approval, the AR is to submit to the ADO a justification for the equipment including the dollar amount of the item and, if appropriate, an explanation as to why the equipment is to be purchased vs. leased.

Foreign Travel

All foreign travel performed under this award must be approved in writing by the ADO prior to departure. If foreign travel is authorized under this project, the approved budget will identify funds for this purpose. Where foreign travel is contemplated subsequent to the effective date of the project, a written request must be submitted to the ADO outlining the purpose of the proposed trip, the inclusive dates of travel, the destination, and estimated costs involved.

Changes of Name or Legal Status

NOTE: If an awardee is contemplating any type of transaction involving the entity (i.e., merger, spin-off, or sale), it is advised that the awardee contact the program point of contact identified in Block 14. of the Award Face Sheet (Form NIFA-2009)(or any one of the SBIR National Program Leaders) for knowledge of how the transaction may affect the award. The awardee shall notify the ADO promptly of any pending change in its name or address, its principal operating officers, or the legal status of the awardee institution, organization, or entity, including, but not limited to, change brought about through merger, divestiture, or bankruptcy. Upon notification, the ADO shall provide appropriate instructions to the awardee through the AR.

Absence of or Change in Project Leadership

When a PD/PI plans to:

- ~ relinquish active direction of the project for a period of more than three consecutive months,
- ~ have a 25 percent or more reduction in the time devoted to the project, or
- ~ sever his or her connection with the awardee,

the awardee has several options and responsibilities.

- a. If the PD/PI's absence is temporary, the AR must notify the ADO in writing of arrangements for the continuing conduct of the

project (i.e., identify who will be in charge during the PI/PD's absence, including his/her curriculum vita and his/her written concurrence).

b. If the PD/PI severs his/her affiliation with the awardee, the awardee's options include:

1) Replacing the PD/PI on the Project - The AR must request, in writing, ADO approval of the replacement PD/PI and must include a copy of his/her curriculum vita. The request must also contain the signature of the proposed replacement PD/PI signifying his/her willingness to assume leadership of the project.

2) Relinquish the Award - If neither of the previous options is viable and the awardee wishes to relinquish the award, the following procedures should be followed: the awardee should send a letter, signed by the AR and PD/PI, to the ADO which indicates the awardee is relinquishing the award. The letter should include the date the PD/PI is leaving and a summary of progress to date (the progress report can be accomplished by attaching a final "Accomplishments Report" (Form AD-421)(see Article 10.). A final Form SF-425, "Federal Financial Report" (see Article 25.), which reflects the total amount of funds spent by the awardee, should be attached to the letter.

No-Cost Extensions of Time

Where a no-cost extension of time is required, the extension(s) **must be approved in writing by the ADO**. The AR shall prepare and submit a **written request to the applicable ADO** at the address or facsimile number identified in Article 2.a. **The request must be received by the ADO no later than 10 days prior to the expiration date of the award** and should contain the following information:

1. Addressed to the appropriate NPL
2. Include the grant number
3. Time required to complete the project objectives and justification;
4. A summary of progress to date;
5. An estimate of funds expected to remain unobligated on the scheduled expiration date;
6. A projected timetable to complete the portion(s) of the project for which the extension is being requested;
7. Signatures of the AR and/or the Project Director must be on the letter.
8. Send the letter to the ADO for timely processing as identified in Article 2.a of these terms and conditions.

Requests for no-cost extensions of time after expiration date. NIFA may consider and approve requests for no-cost extensions of time up to 120 days following the expiration of the award. These will only be approved for extenuating circumstances, as determined by NIFA. The awardee's AR must submit the requirements identified in items 1. through 8. above as well as an "extenuating circumstance" justification and a description of the actions taken by the awardee to minimize late requests in the future.

The fact that funds are expected to remain unobligated at the expiration of the award is not in itself sufficient justification to receive an extension of time unless otherwise authorized in the program legislation. Normally, no single extension may exceed 12 months and only in exceptional cases will more than one extension be considered. The award period (including any subsequent authorized extensions of time), shall not exceed any applicable limit (see the asterisked paragraph at the end of this subpart.).

*Note that statutory language or agency policy may limit the maximum potential award period. The award period will commence as of the effective date cited in the award instrument. Any such limitation also applies to subcontracts made under awards subject to an award period limitation.

Pre-award Costs Incurred Outside the 90-Day Period

Where pre-award costs are incurred outside the 90-day period immediately preceding the award, such costs must be approved in writing by the ADO. The request must be received and approved by the NIFA Office of Grants and Financial Management prior to charging such costs to the award. The request must include the following:

1. Justification for why pre-award costs are necessary
2. A timetable or date when the expense will be incurred
3. What the expense is for (Note: these costs must be accounted for in the final approved budget)
4. The estimated amount of the expense.

5. Signatures of the AR and/or the Project Director must be on the letter.
6. Send the letter to the ADO for timely processing as stated in Section 2 of these terms and conditions

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

Request submitted PRIOR to the end of the 90-day period following the award expiration date. The request should include a provisional report (showing unliquidated obligations), justification for not submitting a final by the initial due date, and the anticipated date for submission of a final report. Note that any extension of time is subject to expiring appropriations (see Article 7.) or other statutory or agency policy limitations (see Funding Period in this Article). Funds will remain available for drawdown during an approved extension of time.

Request submitted FOLLOWING the end of the 90-day period following the award expiration date. Such requests will only be considered, up to 30 days after the due date, in extenuating circumstances. This request should include a provisional report (showing unliquidated obligations) as well as an anticipated submission date for the final report, a justification for the late submission, and a justification for the extenuating circumstances. Note that any extension of time is subject to expiring appropriations (see Article 7.) or other statutory or agency policy limitations (see Funding Period in this Article).

5. UNALLOWABLE COSTS

The following costs are unallowable under this grant unless otherwise permitted by law or approved in writing by the ADO:

- a. Costs above the amount authorized for the project;
- b. Costs incurred before the effective date of the award (see Article 4., Pre-award Costs);
- c. Costs incurred after the expiration of the award including any no-cost extensions of time;
- d. Costs which lie outside the scope of the approved project and any amendments thereto;
- e. Entertainment costs regardless of their apparent relationship to project objectives;
- f. Business meals may not be charged as project costs when individuals decide to go to breakfast, lunch, or dinner together when no need exists for continuity of a meeting. Such activity is considered to be an entertainment cost. In contrast, it is NIFA policy that a formal group meeting being conducted in a business atmosphere may charge meals to the project if such activity maintains the continuity of the meeting and to do otherwise will impose arduous conditions on the meeting participants. Note: Meals consumed while in official travel status do not fall in this category. They are considered to be per diem expenses and should be reimbursed in accordance with the organization's established travel policies.
- g. Independent research and development costs;
- h. Compensation for injuries to persons or damage to property arising out of project activities;
- i. Consulting services performed by a Federal employee during official duty hours when such consulting services result in the payment of additional compensation to the employee;
- j. None of the funds under this award may be used towards travel costs for NIFA employees.

This list is not exhaustive. Questions regarding the allowability of particular items of cost should be directed to the ADO address or facsimile number identified in Article 2.a.

NOTE: Costs which have been determined to be unallowable, whether by statutory or regulatory mechanism, may not be used to meet any required non-Federal share of costs.

6. LIMIT OF FEDERAL LIABILITY

The maximum obligation of NIFA to the awardee is the amount indicated in the award as obligated by NIFA. Nothing in this article or in the other requirements of this award requires NIFA to make any additional award of funds or limits its discretion with respect to

the amount of funding to be provided for the same or any other purpose. However, in the event that an erroneous amount is stated in the award, the approved budget, or any supporting documentation relating to the award, NIFA shall have the unilateral right to make the correction and to make an appropriate adjustment in the NIFA share of the award to align with the Federal amount authorized.

7. PAYMENTS

Payments will be made by electronic funds transfer through the Department of Treasury's Automated Standard Applications for Payment System (ASAP). Requests for payment should be in accordance with ASAP instructions. All questions relating to payments should be submitted to:

Financial Operations Division
Office of Grants and Financial Management
National Institute of Food and Agriculture
U.S. Department of Agriculture
STOP 2298
1400 Independence Avenue, S.W.
Washington, D.C. 20250-2298
Telephone: (202) 401-4527
Facsimile: (202) 401-3481

If an awardee is a sole proprietorship, funds awarded shall be deposited in a separate bank account and NIFA, through the Financial Operations Division (FOD), shall be informed of the name and location of the bank. In addition, arrangements must be reached between the awardee and the bank of deposit of the award funds in accordance with the following: the account must be of a nature that permits the bank of deposit to return unused funds remaining in that account to NIFA in the event of the awardee's demise. However, NIFA shall not be named a joint owner of such an account, but rather as beneficiary. These arrangements also must be reported to the FOD.

Phase I Payment Schedule

Requests for payment shall be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the recipient organization for direct program or project costs and the proportionate share of any allowable indirect costs.

Phase II Payment Schedule

Payments shall be made according to the following schedule:

- a.** Aggregate payment requests of up to 50% of total award dollars will be honored during the first half of the project.
- b.** A mid-project payment request should accompany the progress report required by Article 9. Upon acceptance of the performance report, up to an additional 45% of total award dollars will be paid to the awardee.
- c.** The final 5% of total award dollars will be paid upon receipt and acceptance of the comprehensive final technical report required under Article 25.b.

Expiring Appropriations

Generally, the appropriated funds that support awards expire after 5 years and the account is closed. This means that in the fifth year following an appropriation, any award funds that have not been drawdown by August 31 of that year by the awardee are subject to be returned to the Department of the Treasury. To determine the appropriation year of award funds, see block 17. Funds Chargeable of the Award Face Sheet (Form NIFA-2009). This block contains a two-digit fiscal year followed by a financial data code (FDC). In the following example, "08-823-33610," the first two numbers "08" represent the fiscal year "2008." In this example it means that the funds must be drawdown by August 31 of the year 2013.

NIFA awards supported with funds from other Federal agencies (reimbursable funds). NIFA may require that all draws and reimbursements for awards supported with reimbursable funds (from other Federal agencies) be completed prior to June 30th of the 5th fiscal year after the period of availability for obligation ends to allow for the proper billing, collection, and close-out of the associated interagency agreement before the appropriations expire. The June 30th requirement also applies to awards with a 90-day period concluding on a date after June 30th of that fifth year.

Appropriations cannot be restored after expiration of the account.

If you have questions about whether an applicable appropriation will expire after 5 years, contact the Administrative Point of Contact identified in block 14 of the Award Face Sheet, Form NIFA-2009.

8. FINANCIAL REPORTING

A “Federal Financial Report,” Form SF-425, is due on an annual basis no later than 90 days following the anniversary date (i.e., one year following the month and day of which the project period begins and each year thereafter up until a final report is required). An annual Progress Report covers the most recent one-year period. The report must be submitted to Awards Management Division (see Article 2.a. for contact information). The preferred method of submission is as a portable document format (PDF) attachment to an email.

- (1) The report shall be completed on a single award basis.
- (2) The cash management information (lines 10(a) through 10(c)) is NOT to be completed.
- (3) The financial status information (lines 10(d) through 10(o) as well as line 11) on the form are to be completed.
- (4) The awardee shall report program outlays and program income on the same accounting basis (i.e., cash or accrual) that it uses in its normal accounting system.
- (5) When submitting a financial report, the total matching contribution, if required, should be shown in Item 12., Remarks.

See Article 25.a. for reporting of the final “Federal Financial Report.”

See Article 7. for Expiring Appropriations.

9. PERFORMANCE MONITORING

a. The awardee is responsible for monitoring day-to-day project performance and for reporting progress to NIFA. If this project involves subcontractual arrangements, the awardee also is responsible for monitoring the performance of project activities under those arrangements to ensure that approved goals and schedules are met.

b. Interim technical report. In addition to the requirements of Article 10.b., the awardee is required to submit the following technical reports. This report must be submitted at approximately the mid-point in the project. It should be submitted electronically as an attachment (MS Word or PDF) to the following email address: sbir@nifa.usda.gov. The report may include proprietary information as it will not be made available to the public via the worldwide web. **The report should include a single-page executive summary as the first page.** This summary should include the purpose of the research, a brief description of the research carried out, the research findings or results, and in a final paragraph, potential applications (commercial or other) of the research. The balance of the report should include a comparison of actual accomplishments with the goals established for the grant; the reasons for slippage if established goals were not met; estimates of technical feasibility; and additional pertinent information, such as an explanation of cost over-runs or unexpectedly high unit costs. Also, identify all other recipients (public and private) of the research results documented in the report. Additional guidance for this report can be found on the “Grantee Resources” webpage located at <http://www.nifa.usda.gov/funding/sbir/sbir.html>.

c. Comprehensive final technical report. For Phases I and II awardees refer to Article 25.b., Award Closeout, for instructions.

**10. CURRENT RESEARCH INFORMATION SYSTEM (CRIS)/REEP
REQUIREMENTS FOR PHASE II AWARDS**

NIFA anticipates transitioning incrementally from its existing reporting system, Current Research Information System (CRIS), to a new reporting system, REEport, during FYs 2011 and 2012. Initial reporting (item a. below) for this grant is to be submitted through the existing CRIS system. Annual progress and final reporting (items b. and c. below) on this grant is to be done through the NIFA electronic, Web-based inventory system (CRIS or REEport) in use at that time (if the new REEport system has been implemented, CRIS will redirect the user to REEport accordingly). Information on the transition from CRIS to REEport can be found on NIFA's web site at http://www.nifa.usda.gov/business/reepor_imp.html.

Review the following guidance closely regarding reporting requirements.

a. Initial Documentation in the CRIS Data Base.

All projects **must** be documented in the Current Research Information System (CRIS). Except as noted below, the main USDA contact for all CRIS documentation is:

Office of Planning, Accountability, and Reporting Staff
National Institute of Food and Agriculture
U.S. Department of Agriculture
STOP 2213
1400 Independence Avenue, S.W.
Washington, D.C. 20250-2213
Telephone: (202) 690-0011
Facsimile: (202) 690-0634
E-mail: cris@nifa.usda.gov

NIFA WILL NOT RELEASE FUNDS FOR THIS PROJECT UNTIL THE REQUIRED FORMS HAVE BEEN RECEIVED ELECTRONICALLY BY CRIS.

Information collected in the "Work Unit Description" (Form AD-416), and "Work Unit Classification" (Form AD-417), is required upon project initiation for all NEW awards in CRIS. For Phase I and Phase II grants this information is partially completed by the appropriate NIFA Program Manager. The NIFA Program Point of Contact will request the Phase I and Phase II awardee, as appropriate, to complete and electronically submit the information to CRIS at the appropriate time.

To submit forms electronically, see item **d.** of this section for access information. For first-time users of the CRIS electronic submission system, please contact the Office of Planning, Accountability, and Reporting Staff (OPARS) for further instructions.

Technical questions regarding the online completion of the reports should be directed to the OPARS office at (202) 690-0011.

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

b. Annual Reports.

All projects **must** report annually into the NIFA electronic, Web-based inventory system (CRIS or REEport). Annual progress reports should be submitted to CRIS; however, **if the new REEport system has been implemented, CRIS will redirect the user to REEport accordingly.** The NIFA contact for CRIS is identified in a. above and the NIFA contact for all REEport documentation is:

REEport
National Institute of Food and Agriculture
U.S. Department of Agriculture
STOP 2213
1400 Independence Avenue, S.W.
Washington, D.C. 20250-2213
Telephone: (202) 690-0009
Fax: (202) 720-7714
E-mail: reepor@nifa.usda.gov

The annual Progress Report includes a summary of outputs, outcomes/impacts, publications, participants, target audiences, and project modifications.

The annual report of “Funding and Staff Support,” discloses expenditures based on funding sources at the project level. The staff support values reported reflects project level effort expended for the particular year being reported. The awardee or designated contact will receive an email request to submit this data, when applicable.

Each year a Phase II award is active, the **NIFA electronic, Web-based inventory** system will notify the awardee or designated contact via email of upcoming reporting requirements. An annual Progress Report and when applicable, “Funding and Staff Support Report” must be completed in accordance with instructions accompanying the request and/or those provided on the **NIFA electronic, Web-based inventory** system data entry website referenced in item d. Reports must be submitted electronically utilizing access information (e.g., login information) provided in the NIFA electronic, Web-based inventory request for a progress report.

The Phase II annual Progress Report is due 90 calendar days after the award’s anniversary date (i.e., one year following the month and day of which the project period begins and each year thereafter up until a final report is required). An annual Progress Report covers the most recent one-year period.

An annual “Funding and Staff Support” is due on February 1 of the year subsequent to the federal fiscal year being reported.

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

c. Final Report. In the month that an award is due to expire, a request notification for the Final Technical Report will be sent electronically to the awardee recipient or designated contact in the **NIFA electronic, Web-based inventory** system. The Final Technical Report is required within 90 calendar days after the expiration or termination of the award. The CRIS final report, “Accomplishment Report,” covers the entire period of performance of the award. The Final Technical Report covers the entire period of performance of the award and must describe progress made during the entire timeframe of the project instead of covering accomplishments made only during the final reporting segment of the project. In addition to supplying the information required under section b.(1) through (3) of this article, the final report must include the following when applicable:

- (1) A disclosure of any inventions not previously reported that were conceived or first actually reduced to practice during the performance of work under this award; and
- (2) A written statement on whether or not the awardee elects (or plans to elect) to obtain patent(s) on any such invention.
- (3) Identify equipment purchased with any Federal funds under the award and indicate subsequent use of such equipment.

Failure to submit an acceptable Final Technical Report within 90 calendar days after the award’s anniversary date may result in funds being withheld for other active NIFA grants for which the Project Director(s) under this award are also named as well as prevent the award of future NIFA grants until the required report has been received in the NIFA electronic, Web-based inventory system and approved by NIFA.

d. Web Site Via Internet. Please note the importance of preparing well written progress and technical reports. The reports should NOT contain proprietary information as the reports are made available to the public on the worldwide web CRIS project information is available via the Internet CRIS web site at: <http://cris.nifa.usda.gov>.

To submit forms electronically, the CRIS forms web site can be accessed through the CRIS web site or accessed directly at: <http://cwf.uvm.edu/cris/intro.htm>.

The CRIS sites will redirect the user to REEport following REEport’s implementation.

11. COMMERCIALIZATION ASSISTANCE TRAINING PROGRAM

Phase II awardees are required to participate in a USDA SBIR Phase II Commercialization Assistance Training Program (CATP) during their first year of funding which involves: 1) the Project Director’s (PD) attendance at the USDA SBIR commercialization workshop held in the Washington DC area, and 2) completion of a Commercialization Strategy Report (CSR).

SBIR commercialization workshop. The awardee may use grant funds to cover the cost of travel and lodging or is otherwise responsible for such costs.

Commercialization Strategy Report (CSR). The awardee is expected to work cooperatively with the commercialization assistance contractor in the development of a CSR. The CSR is to include recommendations to assist the awardee in working towards completion of the project's commercialization objectives. Upon the contractor's completion of the CSR and documentation of the awardee's acceptance of it (e.g., e-mail message, facsimile or suitable documentation), the contractor is responsible for submitting the final CSR report to the USDA SBIR Office at sbir@nifa.usda.gov. Upon review and approval of the CSR by the appropriate NPL in the USDA SBIR Office, the NPL will e-mail the PD and the commercialization assistance contractor. The awardee is then responsible for working towards completion of the project's commercialization objectives in accordance with the CSR.

12. ACKNOWLEDGMENT OF SUPPORT AND DISCLAIMER

The following acknowledgment of NIFA support must appear in the publication of any material, whether copyrighted or not, and any products produced in electronic formats (e.g., World Wide Web pages, computer programs, etc.) which is substantially based upon or developed under this award:

"This material is based upon work supported by the National Institute of Food and Agriculture, U.S. Department of Agriculture, under Agreement No. [the awardee should enter the applicable award number here] of the Small Business Innovation Research Grants Program."

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

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

The awardee is responsible for assuring that an acknowledgment of NIFA support is made during news media interviews, including popular media such as radio, television and new magazines, that discuss in a substantial way work funded by this award.

13. NONEXPENDABLE EQUIPMENT

Title to nonexpendable equipment purchased with award funds shall vest in the awardee upon completion of the award project and acceptance by USDA of required reports in accordance with Article 25. Such equipment shall be subject to the provisions of 7 CFR 3019.34.

When the equipment is no longer needed by the awardee and the per unit fair market value is less than \$5,000, the awardee may retain, sell, or dispose of the equipment with no further obligation to NIFA. If, on the other hand, the per unit fair market value is \$5,000 or more, then the awardee must submit a written request to the ADO for disposition instructions.

14. DATA COLLECTION

The provisions of 5 CFR Part 1320 apply if this award involves the collection of identical information from ten or more non-Federal persons or organizations and the collection of information is sponsored by USDA. A collection of information undertaken by an awardee is considered to be conducted or sponsored by the department if: (1) the awardee is conducting the collection of information at the specific request of the Department; or (2) the terms and conditions of the award require specific approval by the agency of the collection of information or collection procedures.

Any data collection activities performed under this award are the responsibility of the awardee, and USDA support of the project does not constitute USDA approval of the survey design, questionnaire content, or data collection procedures. The awardee shall not represent to respondents that such data are being collected for or in association with USDA or any other Federal Government agencies unless such data are sponsored by the Department. However, this requirement is not intended to preclude mention of USDA support of the project in response to an inquiry or acknowledgment of such support in any publication of this data.

15. PROJECT-RELATED INCOME

a. Program Income. If the award recipient or subrecipient is other than a Federal agency, royalties or equivalent income earned on

patents, inventions, and copyrighted works may be retained by the awardee. General program income earned during the period of NIFA support of this project may be added to total project funds and used to further the objectives of this award or the legislation under which this award is made. Disposition of program income earned by subawardees shall be determined in accordance with the awardee's own policies. Also see 7 CFR Part 3019.24.

b. Interest Income. Unless the grantee (or subrecipient) is a State or local government, interest or investment income earned on Federal advances deposited in interest bearing accounts shall be remitted annually to the Department of Health and Human Services, Payment Management System, Rockville, MD 20852. Interest amounts up to \$250 per year may be retained by the recipient for administrative expenses.

16. RELEASE OF INFORMATION

The Freedom of Information Act of 1966 (5 U.S.C. 552) and the Privacy Act of 1974 (5 U.S.C. 552a), as implemented by USDA's regulations (7 CFR Part 1.1) and supplemented by NIFA regulations found at 7 CFR Part 3404, shall govern the release or withholding of information to the public in connection with this award. The release of information under these laws and regulations applies only to records held by NIFA and imposes no requirement on the awardee or on any subrecipient to permit or deny public access to their records. Requests for records or the release of information relating to this award should be directed to:

FOIA Coordinator
Information Staff, ARS
U.S. Department of Agriculture
Mail Stop 5128
5601 Sunnyside Avenue
Beltsville, Maryland 20705-5128
Telephone: (301) 504-1640

The regulations cited herein do not affect the retention period for project-related records or rights of access to such records or documents by NIFA, the Comptroller General, or their authorized representatives.

17. SHARING OF FINDINGS, DATA, AND OTHER PROJECT PRODUCTS

a. The PD/PI is expected to publish or otherwise make publicly available the results of work conducted under this award except in cases where such disclosure would jeopardize proprietary information developed during the course of the project.

b. At such time as any article resulting from research work under this award is published in a scientific, technical, or professional journal or publication, two reprints of the publication clearly labeled with the award number and other appropriate identifying information should be sent to the program point of contact identified in the award. This includes notifying the program point of contact, via a listing clearly labeled with the award number, any World Wide Web-based materials resulting from the work.

18. PATENTS, INVENTIONS, INCLUDING PLANT VARIETY PROTECTION, AND COPYRIGHTS

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

Planning, Accountability, and Reporting Staff
National Institute of Food and Agriculture, USDA
STOP 2213
1400 Independence Avenue, S.W.
Washington, D.C. 20250-2213
Telephone: (202) 720-5623
Facsimile: (202) 720-7714
E-mail: bayhdole@nifa.usda.gov

a. Invention Disclosure and Related Information Requirements. 37 CFR Part 401.14(c)(1) requires the disclosure of each subject invention to the Federal Agency within two months after the inventor discloses it in writing to contractor personnel responsible for such matters. Under 35 USC 201(d), an invention means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the US Code, or any novel variety of plant which is or may be protectable

under the Plant Variety Protection Act (7 USC 2321 et seq), pursuant to 37 CFR 401.2(c). Invention disclosure statements pursuant to 37 CFR Part 401.14(c) shall be made by creating an invention record using Interagency Edison. If possible, all supporting documentation shall also be submitted electronically using Interagency Edison. Any required paper correspondence should be sent to the NIFA central point of contact as noted above.

Invention Disclosure

Electronic Submission Via Interagency Edison Web Interface: Interagency Edison (iEdison) can be accessed at <https://s-edison.info.nih.gov/iEdison/>. An overview of the invention iEdison reporting process, an iEdison tutorial, and extensive help text can be found as links on the iEdison home page. Requests for detailed instructions or other questions regarding Interagency Edison should be directed to:

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

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

Other Invention, Patent, and Utilization Reporting Information

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

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

1. Once a patent or PVP is applied for and an application serial number is available, an executed confirmatory license to the Government must be submitted. Such a license must also be submitted in instances where the invention has been licensed but not patented (as is the case of biological materials). For this purpose iEdison provides a confirmatory license template (<https://s-edison.info.nih.gov/iEdison/license.jsp>) that can be submitted via facsimile.
 2. Commensurate with patent or PVP application or issued patent or PVP certificate the awardee organization must submit a copy of the portion of the patent or PVP application that contains the "Government Support Clause," offering proof of formal acknowledgment of Government support of the patent's underlying invention. For PVP applications, the government support clause must be inserted in Exhibit E, block 11. of the application.
 3. Requests for assignment of rights to third parties (e.g., the inventor) must include certification by the inventor. The certification process is defined and can be carried out as described under the USDA/NIFA link on the iEdison home page (<https://s-edison.info.nih.gov/iEdison/>). The signed certification must be submitted to the NIFA office listed above via facsimile (preferable) or U.S. Mail.
 4. Requests for waiver of the domestic manufacturing requirement must be submitted to the NIFA office listed above via facsimile (preferable) or U.S. Mail, including a detailed justification.
- b. Title Election and Patent or PVP Submission:** Within two years of an invention disclosure, a recipient must resolve the title to the invention, that is, either to elect to retain invention rights or waive rights. Should the recipient decide to elect title, recipient must file a non-provisional patent or PVP application must be filed, or notify this agency of its intentions pursuant to 37 CFR Part 401.14(c)(2) and (3). If the recipient fails to either 1) notify the Government of its intentions or 2) exercise its option to file for a patent within the specified time periods, then the Government may exercise its right of ownership pursuant to 37 CFR Part 401.14(d)(1) and (2).

- c. The Government shall not be entitled to publicly disclose or publish research results except under any one of the following circumstances:
- (1) The award recipient publicly discloses or gives permission for publication; or
 - (2) The award recipient does not elect to file for a U.S. patent or PVP on such results, pursuant to 37 CFR Part 401.14(c)(2) and (3); or
 - (3) After the award recipient files for a U.S. patent or PVP pursuant to 37 CFR Part 401.14(c)(3).

"Publications" include publicly accessible databases such as Genbank; and "research results" include genome maps and sequences.

- d. Copyrights - See 7 CFR Part 3019.36.

19. GENOME MAP AND SEQUENCE DATA DISCLOSURE

- a. See Article 18. for patent and invention requirements.

b. If genome sequence data has been obtained, the sequence must be submitted to GenBank. The date of submission to GenBank shall be the same date as the Government's right to publish as indicated in Article 18.c. Submission of data to GenBank is without charge. Information concerning GenBank protocols may be obtained via the Worldwide web, <http://www.ncbi.nlm.nih.gov/>, or by contacting the National Center for Biotechnology Information at the following address:

National Center for Biotechnology Information
National Library of Medicine
Building 38A, Room 8N805
Bethesda, MD 20894
Telephone: (301) 496-2475
Facsimile: (301) 480-9241

Recipients who submit genome sequencing data information to GenBank must report this fact as part of the final reporting requirements identified in Article 25.

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

1. NIFA supports the currently accepted community standards (Bermuda and Ft. Lauderdale agreements; www.wellcome.ac.uk/assets/wtd003207.pdf) for rapid release of genome sequences following the current guidelines for quality assessment as described by the National Institutes of Health (NIH) National Human Genome Research Institute (NHGRI) at: www.genome.gov/10000923 and www.genome.gov/10001812). Recipients of NIFA funding who submit genome sequencing data to public nucleotide sequence databases must report this fact as part of the final reporting requirements identified in Article 25.

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

Whole genome shotgun projects: Sequence traces from whole genome shotgun projects are to be deposited in a trace archive

(NCBI Trace Repository or Ensembl Trace Server) within one week of production. Whole genome assemblies are to be deposited in a public nucleotide sequence database as soon as possible after the assembled sequence has met a set of quality evaluation criteria.

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

2. *Other Community Resource Projects:* A community resource project is defined as a research project specifically devised and implemented to create a set of data (e.g., single nucleotide polymorphisms, SNP; haplotype maps), reagents, or other material(s) (e.g., plant genetic stocks) whose primary utility will be as a resource for the broad scientific community. NIFA requires that results of community resource projects be made immediately available for free and unrestricted use by the scientific community as soon as the quality of these resources is verified. At the same time, it is crucial that the scientific community recognizes and respects the important contribution made by the scientists who carry out community resource projects.
 3. *Microarray Projects:* NIFA requires that data collection and analysis for microarray projects comply with the Minimum Information about Microarray (MIAME; www.mged.org) guidelines. NIFA also encourages use of the MIAME checklist (www.mged.org/Workgroups/MIAME/miame_checklist.html) to enable unambiguous interpretation of the data and potential verification of the conclusions. Data from microarray projects funded by NIFA must be submitted to a pre-existing public repository for microarray data (such as Gene Expression Omnibus {GEO}; www.ncbi.nlm.nih.gov/geo) as part of the process for publishing the experimental results in a peer-reviewed scientific journal. Data from plant microarrays should also be submitted to the PLEXdb (www.plexdb.org/) to enable comparative analysis with additional plant gene expression data sets. If the Project Director decides not to publish the microarray data generated with NIFA funding, NIFA requires the Project Director to submit the microarray data to a pre-existing public repository for microarray data within six months after performing quality control tests on the data or upon termination of the NIFA funding, whichever comes first.
 4. *Protein Sequence:* Protein sequences generated with NIFA funding must be deposited in a pre-existing public database (such as the Universal Protein Resource {UniProt}; www.uniprot.org) as part of the process for publishing the experimental results in a peer-reviewed scientific journal. If the Project Director decides not to publish the protein sequence data generated with NIFA funding, NIFA requires the Project Director to submit the protein sequence data to a pre-existing public database within six months after performing quality control tests on the data or upon termination of the NIFA funding, whichever comes first.
 5. If NIFA funding produces additional genomic resources (libraries, biological reagents, software, plant genetic stocks, etc.) these should be made available to the public as soon as their quality is verified according to community standards. Budgeting and planning for short-term and long-term distribution of these resources and the timing of release to a clearly identified community of users as well as to the scientific community as a whole should be as described in the original application or in a revised plan of work prior to funding. The description should be specific and describe what, how, and when the community would have public access to the information and deliverables from the project. Resources generated from NIFA funding must be available to all segments of the scientific community, including industry and the international community. A reasonable charge is permissible for distribution, but the fee structure must be outlined prior to funding. If accessibility differs between industry and the academic community, the differences must be clearly described in the original application or in a revised plan of work prior to funding.
 6. When the project involves the use of proprietary data or materials from other sources, the data or materials resulting from research supported by this program must be readily available without any restrictions to the users (no reach-through rights). The terms of any usage agreements should be stated clearly in the application or revisions prior to funding.
- d. Release or Distribution of Animal Quantitative Trait Loci (QTL).** Information pertaining to animal QTL that were generated with NIFA funding must be deposited into a pre-existing, public database as part of the process for publishing the experimental results in a peer-reviewed scientific journal. If the Project Director decides not to publish the animal QTL data generated with NIFA funding, NIFA requires the Project Director to submit the animal QTL data to a pre-existing, public database within six months after performing quality control tests on the data or upon termination of NIFA funding, whichever comes first.

e. Release or Distribution of Plant Germplasm. If plant germplasm was developed with NIFA support, these resources should be available to other researchers for validation of published results or additional research. Distribution of plant germplasm for commercial purposes may be limited by the producer of the germplasm. Researchers are strongly encouraged to deposit germplasm, transgenic plants, mutants, plant populations generated for mapping projects, etc. into the National Plant Germplasm System or Stock Center. NIFA encourages Project Directors to confer with the Crop Curators and Crop Germplasm Committees in the USDA National Plant Germplasm System (NPGS) (www.ars-grin.gov/npgs/index.html) regarding the desirability of depositing genetic stocks and experimental plant populations generated by NIFA funding in the NPGS genebanks.

f. Genetic Resources from Outside the United States. If this project will use genetic resources from outside the United States, it is strongly recommended that the Project Director seek information regarding any required prior informed consent from and benefit-sharing with the appropriate host country authorities. For further information, see “Information for U.S. Government Funded Researchers Collecting In Situ Genetic Resources Outside the United States,” housed on the U.S. Department of State’s web site at: www.state.gov/g/oes/rls/or/25962.htm or contact the Plant Exchange office, ARS, USDA, at: www.ars.usda.gov/Main/docs.htm?docid=7456 or the National Animal Germplasm Program at: www.ars-grin.gov/animal/index.html, as appropriate.

20. POSSESSION, USE, AND TRANSFER OF BIOLOGICAL AGENTS OR TOXINS

The possession, use, and transfer of biological agents or toxins is regulated under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, Pub. L. No. 107-188, and the implementing regulations at 7 CFR Part 331, 9 CFR Part 121, and 42 CFR Part 73. The awardee is responsible for full compliance with all applicable laws and regulations.

21. LABORATORY SECURITY

NIFA encourages all awardees to adopt appropriate laboratory security policies and procedures for facilities that work with any level of biological or chemical materials. Until the Federal Government develops applicable security standards, awardees are encouraged to consult the following resources for guidance on laboratory security:

- USDA Departmental Manual 9610-1, “USDA Security Policies and Procedures for Biosafety Level-3 Facilities” (available at <http://www.usda.gov/directives>);
- USDA Departmental Manual 9610-2, “USDA Security Policies and Procedures for Laboratories and Technical Facilities (Excluding Biosafety Level (BSL)-3 Facilities)” (available at <http://www.usda.gov/directives>); and
- Centers for Disease Control and Prevention and National Institutes of Health “Biosafety in Microbiological and Biomedical Laboratories” Manual, Appendix F “Laboratory Security and Emergency Response Guidance for Laboratories Working with Select Agents” (available at <http://www.cdc.gov/od/ohs/biosfty/biosfty.htm>).

22. RESEARCH MISCONDUCT

All research awards issued by NIFA are subject to 7 CFR 3022, “USDA Research Misconduct Regulations for Extramural Research,” (75 FR 49357); USDA’s implementation of the Federal Policy on Research Misconduct published at 65 FR 76260.

To report allegations of research misconduct see <http://www.nifa.usda.gov/business/awards/researchmiscon.html>.

23. RECORDKEEPING

Accounting records for all costs incurred under this award must be supported by source documentation. Such documentation includes, but is not limited to, time and effort reports, job orders, canceled checks, invoices, paid bills, payroll records, and subcontract award documents if applicable. Labor costs charged to this project must be based upon salaries actually earned and the time actually worked on the project. Time and effort records must be maintained for any salary expenditures charged to this award. Furthermore, all project costs must be incurred within the approved project period of this award, including any no-cost extensions of time approved by the ADO. **Costs which cannot be supported by source documentation or which are incurred outside of the approved project period may be disallowed and may result in award funds being returned to the Federal government by the awardee.**

24. TRAFFICKING IN PERSONS

a. Provisions applicable to a recipient that is a private entity as defined in 2 CFR 175.25(d).

1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not--

- i. Engage in severe forms of **trafficking** in persons during the period of time that the award is in effect;
- ii. Procure a commercial sex act during the period of time that the award is in effect; or
- iii. 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 --

- i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or
- ii. 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--
 - A. Associated with performance under this award; or

B. 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 7 CFR part 3017.

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--

- i. Associated with performance under this award; or
- ii. 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 7 CFR part 3017.

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 this award term.

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

- i. Implements section 106(g) of the **Trafficking** Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
- ii. Is in addition to all other remedies for noncompliance that are available to us 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:

- i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
- ii. 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":

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

ii. Includes:

A. 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 175.25(b).

B. 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 U.S.C. 7102).

25. AWARD CLOSEOUT

Award closeout is the process by which NIFA determines that all required project activities have been performed satisfactorily and all necessary administrative actions have been completed. This award and any subawards hereunder shall be closed out as soon as possible after expiration or termination of the project. While the awardee may use its own policies and procedures in closing out awards made to its recipients, the following shall govern the closeout of the prime award:

a. Federal Financial Report. A final “Federal Financial Report,” Form SF-425, is due 90 days after the expiration date of this award. The report must be submitted to the Awards Management Division (AMD). The preferred method of submission is as a portable document format (PDF) attachment to an email sent to awards@nifa.usda.gov.

- (6) All drawdowns must be made within 90 days after the expiration date of the award and before the final SF-425 is submitted.
- (7) The report shall be completed on a single award basis.
- (8) The cash management information (lines 10(a) through 10(c)) is NOT to be completed.
- (9) The financial status information (lines 10(d) through 10(o) as well as line 11) on the form are to be completed.
- (10) The awardee shall report program outlays and program income on the same accounting basis (i.e., cash or accrual) that it uses in its normal accounting system.
- (11) When submitting a financial report, the total matching contribution, if required, should be shown in Item 12., Remarks.
- (12) Final Financial Report - The final SF-425 report must not show any unliquidated obligations. If the awardee still has valid obligations that remain unpaid when the SF-425 is due, it shall request an extension of time to submit the report. See Article 4. Further, when a final report is overdue (beyond the 90-day period following the award expiration date and not covered by an approved extension of the due date for submission of the report), the award will be placed on “manual review,” which restricts the awardee’s ability to draw funds. If any remaining funding is needed by the awardee, the awardee must contact AMD and request a draw providing AMD with justification and documentation to support the draw. Such draw requests will only be approved in extenuating circumstances, as determined by NIFA.

b. Final Technical Report.

- (1) Comprehensive final technical reports for both Phase I and Phase II grants should be submitted electronically as an attachment (MS Word or PDF) to the following email address: sbir@nifa.usda.gov. The report may include proprietary information as it will not be made available to the public via the worldwide web. **Phase I final reports are due within 90 days after the expiration date but prior to issuance of a Phase II award. Phase II final reports are due within 90 days of expiration.** Final payment of awards is contingent on the timely submission of the final technical report. Reports not submitted within the 90 days may put final payment in jeopardy. **The report should include a single-page executive summary as the first page.** This summary should include the purpose of the research, a brief description of the research carried out, the research findings or results, and, in a final paragraph, potential applications (commercial or other) of the research. Phase II final reports should also include a summary of the level of success in meeting the requirements of the Commercialization Strategy Report (CSR). The balance of the report should include a comparison of actual accomplishments with the goals established for the award; the reasons for slippage if established goals were not met; estimates of technical feasibility; and additional pertinent information such as an explanation of cost over-runs or unexpectedly high unit costs. In addition, all other recipients (public and private) of the research results documented in this report should be identified. Additional guidance for this report can be found on the “Grantee Resources” webpage located at <http://www.nifa.usda.gov/funding/sbir/sbir.html>.

- (2) If genome sequence data is developed under this award, special additional reporting requirements are applicable. See Article 19., "Genome Map and Sequence Data Disclosure," for specific instructions.
- (3) Phase II awardees, see Article 10.c., Final Reports.
- (4) See Article 18. for patent, invention, and copyright requirements.

ARTICLE 26. REPORTING SUBAWARDS AND EXECUTIVE COMPENSATION

In accordance with the Office of Management and Budget guidance published in the Federal Register (FR), 75 FR 55663, on September 14, 2010, "Requirements for Federal Funding Accountability and Transparency Act Implementation," awardees must comply with the requirements of this award term.

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 \$25,000 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.

- i. You must report each obligating action described in paragraph a.1. of this award term to <http://www.frs.gov>.
- ii. 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.frs.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—

- i. the total Federal funding authorized to date under this award is \$25,000 or more;
- ii. in the preceding fiscal year, you received--
 - (A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - (B) \$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 U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>.)

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

- i. As part of your registration profile at <http://www.ccr.gov>.
- ii. 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--

- i. in the subrecipient's preceding fiscal year, the subrecipient received--
 - (A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

(B) \$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

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

i. To the recipient.

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

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:

i. Subawards, and

ii. 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:

i. A Governmental organization, which is a State, local government, or Indian tribe;

ii. A foreign public entity;

iii. A domestic or foreign nonprofit organization;

iv. A domestic or foreign for-profit organization;

v. 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:**

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

ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. ---- .210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").

iii. 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:

i. Receives a subaward from you (the recipient) under this award; and

ii. Is accountable to you for the use of the Federal funds provided by the subaward.

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 229.402(c)(2)):

i. Salary and bonus.

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

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

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

v. Above-market earnings on deferred compensation which is not tax-qualified.

vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value

of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

ARTICLE 27. CENTRAL CONTRACTOR REGISTRATION AND UNIVERSAL IDENTIFIER REQUIREMENTS

In accordance with the Office of Management and Budget guidance published in the Federal Register (FR), 75 FR 55671, on September 14, 2010, "Financial Assistance Use of Universal Identifier and Central Contractor Registration," awardees must comply with the requirements of this award term.

A. Requirement for Central Contractor Registration (CCR)

Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the CCR until you submit the final financial report required under this 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 award term.

B. Requirement for Data Universal Numbering System (DUNS) Numbers

If you are authorized to make subawards under this 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 unless the entity has provided its DUNS number to you.
2. May not make a subaward to an entity unless the entity has provided its DUNS number to you.

C. Definitions

For purposes of this award term:

1. *Central Contractor Registration (CCR)* means the Federal repository into which an entity must provide information required for the conduct of a business as a recipient. Additional information about registration procedures may be found at the CCR Internet site (currently at <http://www.ccr.gov>).
2. *Data Universal Numbering System (DUNS) number* means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).
3. *Entity*, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:
 - 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; and
 - e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
4. *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 .210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").