

New Hampshire
 Department of Agriculture,
 Markets & Food

Shawn N. Jasper, Commissioner

July 12, 2022

The Honorable Karen Umberger, Chairman
 Fiscal Committee of the General Court and

His Excellency, Governor Christopher T. Sununu
 and the Honorable Council
 State House
 Concord, New Hampshire 03301

REQUESTED ACTION

- Pursuant to RSA 9:16-c, I, authorize the Department of Agriculture, Markets & Food to transfer funds in the amount of \$46,600 in and among classes and to create new expenditure classes within an accounting unit, effective upon Fiscal Committee and Governor and Executive Council approval through June 30, 2023. **100% Federal Funds.**

FSMA (Food Safety Modernization Act) 02-18-18-181000-38950000 Fiscal Year 2023					
Class	Account	Description	Current Adjusted Authorized	Requested Action	Revised Adjusted Authorized
Resources					
000-16	401352	Federal Funds	\$292,693	\$0	\$292,693
		Totals	\$292,693	\$0	\$292,693
Expenditures					
10	500100	Personal Services – Perm.	\$0	\$37,596	\$37,596
18	500106	Overtime	\$500	\$0	\$500
20	500200	Current Expenses	\$9,551	\$0	\$9,551
37	500173	Technology Hardware	\$1,000	\$0	\$1,000
38	500177	Technology Software	\$52,000	(\$46,600)	\$5,400
39	500191	Telecommunication	\$768	\$0	\$768
40	500800	Indirect Costs	\$10,950	\$0	\$10,950
41	500801	Audit Fund Set Aside	\$0	\$0	\$0
42	500620	Post Retirement	\$30	\$0	\$30
50	500109	Personal Service – Temp.	\$52,913	\$0	\$52,913
60	500601	Benefits	\$4,159	\$9,004	\$13,163
69	500567	Promotional Marketing	\$3,036	\$0	\$3,036
70	500705	In state Travel	\$3,850	\$0	\$3,850

80	500710	Out of State Travel	\$10,434	\$0	\$10,434
102	500731	Contracts for Program Serv.	\$143,502	\$0	\$143,502
		Totals	\$292,693	\$0	\$292,693

2. Authorize the Department of Agriculture, Markets & Food, to accept and expend \$46,572 from the Department of Health and Human Services, United States Food and Drug Administration, for the Food Safety Modernization Act, effective upon Governor and Council approval through June 30, 2023. **100% Federal Funds.**

FSMA (Food Safety Modernization Act) 02-18-18-181000-38950000 Fiscal Year 2023					
Class	Account	Description	Current Adjusted Authorized	Requested Action	Revised Adjusted Authorized
Resources					
000-16	401352	Federal Funds	\$292,693	\$46,572	\$339,265
		Totals	\$292,693	\$46,572	\$339,265
Expenditures					
10	500100	Personal Services – Perm.	\$0	\$0	\$0
18	500106	Overtime	\$500	\$0	\$500
20	500200	Current Expenses	\$9,551	\$0	\$9,551
37	500173	Technology-Hardware	\$1,000	\$2,079	\$3,079
38	500177	Technology-Software	\$52,000	\$0	\$52,000
39	500191	Telecommunication	\$768	\$380	\$1,148
40	500800	Indirect Costs	\$10,950	\$0	\$10,950
41	500801	Audit Fund Set Aside	\$0	\$2,946	\$2,946
42	500620	Post Retirement	\$30	\$1,342	\$1,372
50	500109	Personal Service – Temp.	\$52,913	\$14,062	\$66,975
60	500601	Benefits	\$4,159	\$25,763	\$29,922
69	500567	Promotional Marketing	\$3,036	\$0	\$3,036
70	500705	In state Travel	\$3,850	\$0	\$3,850
80	500710	Out of State Travel	\$10,434	\$0	\$10,434
102	500731	Contracts for Program Serv.	\$143,502	\$0	\$143,502
		Totals	\$292,693	\$46,572	\$339,265

EXPLANATION

The following appropriation adjustments are being requested as follows:

Request #1:

Class 10 – Personal Services-Perm. Classi - The federal grant from the Department of Health and Human Services, Food and Drug Administration approved the funding for an existing unfunded full-time position for a Program Assistant III (#42925).

Class 38 – Technology-Software – To reduce budgeted funds by \$46,600 because of over budgeting; remaining balance is to maintain software and provide support for a new laptop and printer.

Class 60 – Benefits - An increase in appropriation is requested to cover the full time benefits of the Program Assistant III.

Request #2:

Class 37 – Technology Hardware – An increase in appropriation is requested to purchase a laptop and printer for the Program Assistant III position.

Class 39 – Telecommunications – An increase in appropriation is requested to support the new office telephone and data along with the phone.

Class 41 – Audit Fund Set Aside – The addition of this appropriation is required so all agencies which receive federal funds, set aside a percentage of the amount received to pay for financial and compliance audits.

Class 42 – Additional Fringe Benefits – An addition of this appropriation is required when a full time employee is paid out of a non-general fund, this allows the state to recover general fund expenditures for retirees.

Class 50 – Personal Service – Temp – An increase in appropriation is requested to cover the part time positions. In FY 2023, the account was under budgeted.

Class 60 – Benefits - An increase in appropriation is requested to cover the full time benefits of the Program Assistant III.

The New Hampshire Department of Agriculture, Marketing & Food, requests to transfer funds in and among classes within an accounting unit to maintain program services as it pertains to the federal food safety law that applies to farms growing fruits and vegetables that may be eaten raw.

Federal funding acceptance will allow this agency to provide educational, technical and regulatory outreach to NH farmers who must comply with the Food Safety Modernization Act's Produce Safety Rule.

The following information is provided in accordance with the Budget Officer's instructional memorandum dated April 17, 1985 to support the above requested actions:

Does the transfer involve continuing programs or one-time projects? *The transfer involves continuing programs.*

Is this transfer required to maintain the existing program level or will it increase the program level? *This transfer is required to maintain existing program levels.*

Identify the source of funds on all accounts listed on this transfer. *The source of funds is 100% Federal Funds.*

Will there be any effect on revenue if this transfer is approved or disapproved? *There will be no effect on revenue.*

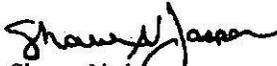
Are funds expected to lapse if this transfer is not approved? *This transfer will not impact lapsed funds.*

Are personnel services involved? *Yes, to fully fund an existing unfunded full-time position for a Program Assistant III (#42925).*

- a. Number of positions budgeted in each account. *1 full-time and 2 part-time positions*
- b. Number of positions filled in each account. *2 part-time positions*
- c. Reason for vacant positions. *This position was transferred from Health & Human Services (HHS) to DAMF through legislative bill process, effective July 1, 2018. Per Chapter 91:360 Laws of FY 2021 a position waiver was granted by the Governor in September, 2021 on the condition the position would be downgraded from Full-Time Program Planner III; LG 25 to Program Assistant III, LG 17 to support the 2 part-time positions and the program.*
- d. Have any positions been transferred previously in these accounts? *No*
- e. Will any positions be transferred as a result of this request? *No*

In the event that these funds become no longer available, general funds will not be requested to support this program.

Respectfully submitted,


Shawn N. Jasper
Commissioner



Recipient Information	Federal Award Information																								
1. Recipient Name STATE OF NEW HAMPSHIRE DEPARTMENT OF AGRICULTURE MARKETS & FOOD 25 CAPITOL ST FL 2 CONCORD 03301	11. Award Number SU2FFD007437-02																								
2. Congressional District of Recipient 02	12. Unique Federal Award Identification Number (FAIN) U2FFD007437																								
3. Payment System Identifier (ID) 1026000618M4	13. Statutory Authority FSMA, Section 210 FSMA, Section 210																								
4. Employer Identification Number (EIN) 026000618	14. Federal Award Project Title Path C Continued Development of the NHDAMF Produce Safety Program Under Path C for Implementation of the FSMA Produce Safety Rule																								
5. Data Universal Numbering System (DUNS) 176836583	15. Assistance Listing Number 93.103																								
6. Recipient's Unique Entity Identifier V1KTLTHPAXD6	16. Assistance Listing Program Title Food and Drug Administration Research																								
7. Project Director or Principal Investigator Shawn Jasper ASSOCIATES Commissioner shawn.jaser@agr.nh.gov 603-271-3551	17. Award Action Type Non-Competing Continuation (REVISED)																								
8. Authorized Official victoria.smith victoria.m.smith@agr.nh.gov 603-848-4781	18. Is the Award R&D? Yes																								
Federal Agency Information	<table border="1"> <thead> <tr> <th colspan="2">Summary Federal Award Financial Information</th> </tr> </thead> <tbody> <tr> <td colspan="2">19. Budget Period Start Date 07/01/2022 - End Date 06/30/2023</td> </tr> <tr> <td>20. Total Amount of Federal Funds Obligated by this Action</td> <td>\$0</td> </tr> <tr> <td> 20 a. Direct Cost Amount</td> <td>\$0</td> </tr> <tr> <td> 20 b. Indirect Cost Amount</td> <td>\$0</td> </tr> <tr> <td>21. Authorized Carryover</td> <td></td> </tr> <tr> <td>22. Offset</td> <td></td> </tr> <tr> <td>23. Total Amount of Federal Funds Obligated this budget period</td> <td>\$315,665</td> </tr> <tr> <td>24. Total Approved Cost Sharing or Matching, where applicable</td> <td>\$0</td> </tr> <tr> <td>25. Total Federal and Non-Federal Approved this Budget Period</td> <td>\$339,265</td> </tr> <tr> <td colspan="2">26. Project Period Start Date 07/01/2021 - End Date 06/30/2026</td> </tr> <tr> <td>27. Total Amount of the Federal Award including Approved Cost Sharing or Matching this Project Period</td> <td>\$645,394</td> </tr> </tbody> </table>	Summary Federal Award Financial Information		19. Budget Period Start Date 07/01/2022 - End Date 06/30/2023		20. Total Amount of Federal Funds Obligated by this Action	\$0	20 a. Direct Cost Amount	\$0	20 b. Indirect Cost Amount	\$0	21. Authorized Carryover		22. Offset		23. Total Amount of Federal Funds Obligated this budget period	\$315,665	24. Total Approved Cost Sharing or Matching, where applicable	\$0	25. Total Federal and Non-Federal Approved this Budget Period	\$339,265	26. Project Period Start Date 07/01/2021 - End Date 06/30/2026		27. Total Amount of the Federal Award including Approved Cost Sharing or Matching this Project Period	\$645,394
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9. Awarding Agency Contact Information Gordana Zuber FOOD AND DRUG ADMINISTRATION gordana.zuber@fda.hhs.gov 301-348-1747	28. Authorized Treatment of Program Income Additional Costs																								
10. Program Official Contact Information Laurie Keppley FOOD AND DRUG ADMINISTRATION Laurie.Keppley@fda.hhs.gov	29. Grants Management Officer - Signature Lisa Ko																								
30. Remarks PLEASE REVIEW ALL TERMS AND CONDITIONS IN SECTIONS III AND IV. "Terms and Conditions," is acknowledged by the recipient when funds are drawn down or otherwise requested from the grant payment system.																									

SECTION I – AWARD DATA – 5U2FFD007437-02 REVISED

Award Calculation (U.S. Dollars)

Salaries and Wages	\$108,651
Fringe Benefits	\$34,331
Personnel Costs (Subtotal)	\$142,982
Travel	\$9,200
Other	\$119,561

Federal Direct Costs	\$271,743
Federal F&A Costs	\$67,522
Approved Budget	\$339,265
Federal Share	\$315,665
Less Unobligated Balance	\$23,600
TOTAL FEDERAL AWARD AMOUNT	\$315,665

AMOUNT OF THIS ACTION (FEDERAL SHARE) \$0

SUMMARY TOTALS FOR ALL YEARS		
YR	THIS AWARD	CUMULATIVE TOTALS
2	\$315,665	\$315,665
3	\$329,729	\$329,729
4	\$329,729	\$329,729
5	\$329,729	\$329,729

* Recommended future year total cost support, subject to the availability of funds and satisfactory progress of the project.

Fiscal Information:

Document Number: UFD007437A
PMS AccountType: P(Subaccount)
Fiscal Year: 2022

IC	CAN	2022	2023	2024	2025
FD	6990914	\$315,665	\$329,729	\$329,729	\$329,729

* Recommended future year total cost support, subject to the availability of funds and satisfactory progress of the project.

FDA Administrative Data:

PCC: ORA17 / **OC:** 4141 / **Processed:** Ko, Lisa 07/08/2022

SECTION II – PAYMENT/HOTLINE INFORMATION – 5U2FFD007437-02 REVISED

Acceptance of this award including the "Terms and Conditions" is acknowledged by the grantee when funds are drawn down or otherwise obtained from the grant payment

system.

Grant payments will be made available through the DHHS Payment Management System (PMS). Please go to <https://pms.psc.gov/> to find more information on user access, payment, reporting and FAQs.

Inquiries should be directed to:

ONE-DHHS—the PMS Help Desk, providing assistance to all system users. Support is available Monday - Friday from 7 a.m. to 9 p.m. ET (except Federal Holidays): 1-877-614-5533 or email PMSSupport@psc.gov.

The HHS Inspector General (IG) maintains a toll-free telephone number, 1-800-447-8477, for receiving information concerning fraud, waste, or abuse under grants and cooperative agreements. Such reports are kept confidential, and callers may decline to give their names if they choose to remain anonymous.

SECTION III – TERMS AND CONDITIONS – SU2FFD007437-02 REVISED

Acceptance of this award including the “Terms and Conditions” is acknowledged by the grantee when funds are drawn down or otherwise obtained from the grant payment system.

This award is based on the application submitted to, and as approved by, FDA on the above-title project and is subject to the terms and conditions incorporated either directly or by reference in the following:

- a. The grant program legislation and program regulation cited in this Notice of Grant Award.
- b. The restrictions on the expenditure of federal funds in appropriations acts to the extent those restrictions are pertinent to the award.
- c. 45 CFR Part 75.
- d. The HHS Grants Policy Statement, including addenda in effect as of the beginning date of the budget period.
- e. Federal Award Performance Goals: As required by the periodic report in the RPPR or in the final progress report when applicable.
- f. The Funding Opportunity Announcement in which this award is issued under.
- g. This award notice, INCLUDING THE TERMS AND CONDITIONS CITED BELOW.

This award has been assigned the Federal Award Identification Number (FAIN) U2FFD007437. Recipients must document the assigned FAIN on each consortium/subaward issued under this award.

Expanded Authorities:

This award is not covered under Expanded Authorities. Carry over of an unobligated

balance into the next budget period requires Grants Management Officer prior approval. All no cost extension requests require prior approval. Please see section Prior Approval on Prior Approval requirements.

Reporting Requirements:

All FDA grants require both Financial and Performance reporting.

Financial Reporting:

A. Cash Transaction Reports

The Federal Financial Report (FFR) has a dedicated section to report Federal cash receipts and disbursements. For recipients, this information must be submitted quarterly directly to the Payment Management System (PMS) using the web-based tool. Quarterly reports are due 30 days following the end of each calendar quarter. The reporting period for this report continues to be based on the calendar quarter. Questions concerning the requirements for this quarterly financial report should be directed to the PMS.

B. Financial Expenditure Reports

A required Federal Financial Report (FFR) must be submitted annually. All annual FFRs must be submitted electronically using the Federal Financial Report (FFR) system located in the eRA Commons. This includes all initial FFRs being prepared for submission and any revised FFRs being submitted or re-submitted to FDA. Paper expenditure/FFR reports will not be accepted.

Annual FFRs must be submitted for each budget period no later than 90 days after the end of the calendar quarter in which the budget period ended. The reporting period for an annual FFR will be that of the budget period for the particular grant; however, the actual submission date is based on the calendar quarter.

If the budget period end date falls within:	then annual FFR is due by:
January, February, March	June 30 th
April, May, June	September 30 th
July, August, September	December 31 st
October, November, December	March 31 st

Performance Progress Reporting:

When multiple years (more than one budget period) are involved, awardees will be required to submit the Research Performance Progress Report (RPPR) annually as required in the Notice of Award. Annual RPPRs must be submitted using the RPPR

module in eRA Commons. The annual RPPR must include a detailed budget. Annual RPPRs are due no later than 60 days prior to the start of the next budget period.

Failure to submit timely reports may affect future funding. Additional Financial and Performance Progress reports may be required for this award. Any additional reporting requirements will be listed under Section IV – Special Terms and Condition of the Notice of Award.

Salary Caps:

None of the funds in this award shall be used to pay the salary of an individual at a rate in excess of the current Executive Level II of the Federal Executive Pay Scale.

Certificates of Confidentiality – 42 U.S.C. 241(d)

Awardees are responsible for complying with all requirements to protect the confidentiality of identifiable, sensitive information that is collected or used in biomedical, behavioral, clinical, or other research (including research on mental health and research on the use and effect of alcohol and other psychoactive drugs) funded wholly or in part by the Federal Government. See 42 U.S.C. 241(d). All research funded by FDA, in whole or in part, that is within the scope of these requirements is deemed to be issued a "Certificate of Confidentiality" through these Terms and Conditions. Certificates issued in this manner will not be issued as a separate document.

Awardees are expected to ensure that any investigator or institution not funded by FDA who receives a copy of identifiable, sensitive information protected by these requirements, understand they are also subject to the requirements of 42 U.S.C. 241(d). Awardees are also responsible for ensuring that any subrecipient that receives funds to carry out part of the FDA award involving a copy of identifiable, sensitive information protected by these requirements understand they are also subject to subsection 42 U.S.C. 241(d).

Acknowledgment of Federal Support:

When issuing statements, press releases, publications, requests for proposal, bid solicitations and other documents --such as tool-kits, resource guides, websites, and presentations (hereafter "statements")--describing the projects or programs funded in whole or in part with FDA federal funds, the recipient must clearly state:

1. the percentage and dollar amount of the total costs of the program or project funded with federal money; and,
2. the percentage and dollar amount of the total costs of the project or program funded by non-governmental sources.

When issuing statements resulting from activities supported by FDA financial assistance,

the recipient entity must include an acknowledgement of federal assistance using one of the following statements.

If the FDA Grant or Cooperative Agreement is NOT funded with other non-governmental sources:

This [project/publication/program/website, etc.] [is/was] supported by the Food and Drug Administration (FDA) of the U.S. Department of Health and Human Services (HHS) as part of a financial assistance award [FAIN] totaling \$XX with 100 percent funded by FDA]/HHS. The contents are those of the author(s) and do not necessarily represent the official views of, nor an endorsement, by FDA/HHS, or the U.S. Government.

If the FDA Grant or Cooperative Agreement IS partially funded with other nongovernmental sources:

This [project/publication/program/website, etc.] [is/was] supported by the Food and Drug Administration (FDA) of the U.S. Department of Health and Human Services (HHS) as part of a financial assistance award [FAIN] totaling \$XX with XX percentage funded by FDA/HHS and \$XX amount and XX percentage funded by non-government source(s). The contents are those of the author(s) and do not necessarily represent the official views of, nor an endorsement, by FDA/HHS, or the U.S. Government.

The federal award total must reflect total costs (direct and indirect) for all authorized funds (including supplements and carryover) for the total competitive segment up to the time of the public statement. Any amendments by the recipient to the acknowledgement statement must be coordinated with FDA. If the recipient plans to issue a press release concerning the outcome of activities supported by FDA financial assistance, it should notify FDA in advance to allow for coordination.

Additional prior approval requirements pertaining to Acknowledgement of Federal Support, publications, press statements, etc. may be required, and if applicable, will be listed under Section IV – Special Terms and Condition of the Notice of Award.

Prior Approval:

All prior approval requests must be submitted using the Prior Approval module in eRA Commons. Any requests involving budgetary issues must include a new proposed budget and a narrative justification of the requested changes. If there are any questions regarding the need or requirement for prior approval for any activity or cost, the grantee is to contact the assigned Grants Management Specialist prior to expenditure of funds.

For grant awards not covered under Expanded Authorities, Carryover and No Cost Extension (NCE) requests will require prior approval. All Carryover and NCE requests

should be submitted using the Prior Approval module in eRA Commons. ****Please review the section on Expanded Authorities to determine if this award is covered/not covered under Expanded Authorities and whether prior approval is needed for carryover and no cost extension requests.****

The following activities require prior approval from FDA on all awards:

1. Change in Grantee Organization
2. Significant Rebudgeting
3. Change in Scope or Objectives
4. Deviation from Terms and Conditions of Award
5. Change in Key Personnel which includes replacement of the PD/PI or other key personnel as specified on the NoA.
6. Disengagement from the project for more than three months, or a 25 percent reduction in time devoted to the project, by the approved PD/PI. No individual may be committed to more than 100% professional time and effort. In the event that an individual's commitment exceeds 100%, the grantee must make adjustments to reduce effort. For FDA-sponsored projects, significant reductions in effort (i.e., in excess of 25% of the originally proposed level of effort) for the PD/PI and key personnel named on named on this Notice of Award must receive written prior approval from FDA.

Additional prior approval requirements may be required for this award, and if applicable, will be listed under Section IV – Special Terms and Condition of the Notice of Award.

Audits and Monitoring:

Audit Requirements:

1. Recipients of Federal funds are subject to annual audit requirements as specified in 45 CFR 75.501 (https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=8040c4036b962cc9d75c3638dedce240&ty=HTML&h=L&r=PART&n=pt45.1.75#se45.1.75_1501). Grantees should refer to this regulation for the current annual Federal fund expenditure threshold level which requires audit.
2. Foreign recipients are subject to the same audit requirements as for-profit organizations (specified in 45 CFR 75.501(h) through 75.501(k).
3. For-profit and foreign entities can email their audit reports to AuditResolution@hhs.gov or mail them to the following address:

U.S. Department of Health and Human Services
Audit Resolution Division, Room 549D
Attention: Robin Aldridge, Director

200 Independence Avenue, SW
Washington, DC 20201

Monitoring:

Recipients are responsible for managing the day-to-day operations of grant-supported activities using their established controls and policies, as long as they are consistent with Federal, DHHS and FDA requirements. However, to fulfill their role in regard to the stewardship of Federal funds, FDA monitors our grants to identify potential problems and areas where technical assistance might be necessary. This active monitoring is accomplished through review of reports and correspondence from the recipient, audit reports, site visits, and other information available to FDA.

1. **Desk review:** FDA grants monitoring specialists will periodically reach out to recipients to request information for the completion of desk reviews. Requested information may include:
 - Policies and procedures
 - List of grant expenditures
 - Accounting records
 - Supporting documents (e.g., invoices, receipts, paystubs, timesheets, contracts, etc.)
 - Financial statements
 - Audit reports
 - Other related documentation
2. **Site visits:** FDA will conduct site visits when necessary and will notify the recipient with reasonable advance notice of any such visit(s).
3. **Foreign entities:** All Foreign entities are subject to the same monitoring requirements as domestic entities. Foreign entities covered under immunity Executive Orders will provide supporting documents for monitoring requirements unless such an action is a violation of the Executive Orders. Recipients may discuss with the FDA to come up with an alternate approach to satisfy the award monitoring requirements.

All recipients will make reasonable efforts to resolve issues found, including audit findings. Successful resolutions to issues are important as they are part of the grant performance review. All recipients are responsible for submitting all requested information in an expeditious manner. **Failure to submit timely reports and/or respond to inquiries from FDA may affect future funding or enforcement actions, including withholding, or conversion to a reimbursement payment method.**

Financial Conflict of Interest (FCOI):

This award is subject to the Financial Conflict of Interest (FCOI) regulation at 42 CFR Part 50 Subpart F.

Closeout Requirements (when applicable):

A Final Research Performance Progress Report (FRPPR), Final Federal Financial Report (FFFR) SF-425, Final Invention Statement (FIS) HHS-568 (if applicable), Tangible Personal Property Report SF-428 (if applicable), and Statement of Disposition of Equipment (if applicable) must be submitted within 120 days after the expiration date of the project period. All closeout documents must be submitted electronically in eRA Commons.

The Final FFR must indicate the exact balance of unobligated funds and may not reflect unliquidated obligations. There must be no discrepancies between the Final FFR expenditure data and FFR cash transaction data in the Payment Management System (PMS). The expended funds reported on the Final FFR must exactly match the disbursements reported on the grantee's report to the Payment Management System and the charge advances in PMS. It is the recipient's responsibility to reconcile reports submitted to PMS and to the FDA.

Program Income:

The grantee is required to report any Program Income generated during the Project Period of this grant. Except for royalty income generated from patents and inventions, the amount and disposition of Program Income must be identified on lines 10 (l), (m), (n), and (o) of the grantee's Federal Financial Report (FFR) SF-425.

Examples of Program Income include (but are not limited to): fees for services performed during the grant or sub-grant period, proceeds from sale of tangible personal or real property, usage or rental fees, patent or copyright royalties, and proceeds from the sale of products and technology developed under the grant.

Any Program Income generated during the Project Period of this grant by the grantee or sub-grantee will be treated as identified below.

Treatment of Program Income:

Additional Costs

Prohibition on certain telecommunications and video surveillance services or equipment:

(a) As described in CFR 200.216, recipients and subrecipients are prohibited to obligate or spend grant funds (to include direct and indirect expenditures as well as cost share and program) to:

- (1) Procure or obtain,
- (2) Extend or renew a contract to procure or obtain; or
- (3) Enter into contract (or extend or renew contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Pub. L. 115-232,

section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

- i. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
- ii. Telecommunications or video surveillance services provided by such entities or using such equipment.
- iii. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise, connected to the government of a covered foreign country.

Other:

This award is subject to the requirements of 2 CFR Part 25 for institutions to maintain an active registration in the System of Award Management (SAM). Should a consortium/subaward be issued under this award, a requirement for active registration in SAM must be included.

In accordance with the regulatory requirements provided at 45 CFR 75.113 and Appendix XII to 45 CFR Part 75, recipients that have currently active Federal grants, cooperative agreements, and procurement contracts with cumulative total value greater than \$10,000,000 must report and maintain information in the System for Award Management (SAM) about civil, criminal, and administrative proceedings in connection with the award or performance of a Federal award that reached final disposition within the most recent five-year period. The recipient must also make semiannual disclosures regarding such proceedings. Proceedings information will be made publicly available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)). Full reporting requirements and procedures are found in Appendix XII to 45 CFR Part 75.

SECTION IV – FD Special Terms and Condition – 5U2FFD007437-02 REVISED

7/8/2022 - This Notice of Award has been revised to add the following restriction:

- Funds will be restricted for the **Program Assistant III (FT) - TBD – Other Personnel** position in the amount of \$57,604 until updated documentation is received by grants management reflecting the hiring of personnel for this position.

Please note: This grant will be partially funded based on the grantee's estimated unobligated balance of \$23,600 from year 01, which will be used as an authorized offset for the 2022-2023

budget period. \$315,665 of new FY2022 funds will be awarded for this grant. The total approved budget including the offset for grant 5U2FFD 007437 – 02 will be \$339,265. In the event that the estimated unobligated balance from year 01 is less than the estimated amount provided by the grantee, no additional Federal Funds will be made available to offset a deficit.

ADDITIONAL PRIOR APPROVAL REQUIREMENTS:

In addition to the standard Prior Approval requirements in Section III, this award has additional Prior Approval requirements as outlined below.

- a. Prior approval is required for significant rebudgeting of 10% or more of the total funds authorized under the current year's award.
- b. An Educational Needs Assessment (ENA) is required prior to beginning any development of new trainings and/or materials per FOA, Objective 3f. For additional information on the ENA, please refer to the Educational Needs Assessment section below.

Restrictions:

1. This award may only be used for activities associated with achieving the goals and objectives of the cooperative agreement. Work proposed under this cooperative agreement may not be duplicated or funded by other cooperative agreements, contracts, or other funding mechanisms. The grantee must be able to account separately for fund expenditures.
2. Cooperative Agreement funds may not be used to fund activities or work beyond the scope of this funding opportunity announcement; this includes activities or work relating to requirements added to state laws that are not included in the Produce Safety Rule.
3. Subcontracting to third parties is limited to 40% of each year's award. Subcontracting with the awardee of RFA-FD-19-023 "National Project to Support and Promote Consistent implementation of the Standards for Growing, Harvesting, Packing and Holding of Produce Consumption" is prohibited during the entirety of the project period.
4. Program Path B funding recipients who have no plans to pursue inspections through jurisdiction's employees with an FDA commission are not eligible for Path B funding.
5. Program Path C funding recipients must have adopted the language and definitions written in the federal regulation, the Produce Safety Rule, in its entirety (with limited exceptions as listed in the FOA) and must have compliance and enforcement authority to be eligible for Path C funding.
6. Any funding allocated for travel or training that does not occur or ends up not being needed due to virtual offerings should not be re-budgeted but should be held and reported as unobligated balance and will be used by FDA to offset any future years budgets.
7. The grantee will retain custody of, and have primary rights to data developed under these awards, subject to government rights of access consistent with current DHHS, PHS, and FDA policies. In all cases, FDA must be given a royalty-free, nonexclusive, and irrevocable license for the federal government to reproduce, publish, or otherwise use the material and to authorize others to do so for federal purposes. Specifically, data or other tangible materials developed under Objective 3f. of the FOA, must be guaranteed free of copyrights from outside sources and be free domain for use by FDA

and other Produce CAP grantee agencies to be used for the purposes of fulfilling CAP objectives.

8. As of 10/28/2021, the FDA put a pause on CAP work under Objective 7; until further notice, grantees will not need to conduct work on, or provide the FDA with documentation for Objectives 7a and 7b: identifying potential gaps in their capability to effectively conduct produce-related event response activities and a documented plan to identify how to address these gaps (See 10/28/2021 email communication).

Non-allowable costs:

1. Vehicle purchases are not permitted.
2. New building construction or remodeling.
3. Food may not be purchased.
4. Payment or reimbursement of any direct costs (including travel) for individual farms/farmers to attend grower training.
5. Payment or reimbursement of any direct costs (including travel) for individual farms/farmers for audit costs or fees.
6. Uniforms.
7. Any equipment or incentive type items that go to individual farms.

Non-allowable costs unless formally approved Prior Approval:

These activities are in general non-allowable unless by rare exception and must be prior approved by FDA, regardless of the dollar amounts associated with the activity. Grantees who would like to pursue any of the following activities need to work with FDA Program staff and submit a detailed written justification for such an activity explaining exactly what they plan to do, why they want to do it and how it directly supports the goals and objectives of the Cooperative Agreement.

1. Any laboratory infrastructure, accreditation, equipment and personnel
2. Any water testing equipment and testing costs

Please also refer to the HHS Grants Policy Statement for additional information regarding costs. Budgets will be reviewed as ongoing process throughout the budget year and grantees may be asked to justify costs, provide supporting documentation or revise budgets as needed to be compliant with Federal, DHHS, and/or FDA grant policies.

Program Specific Reporting:

The data elements that will be requested include, but are not limited to, the following:

Produce Progress Report: Reported for mid-year and annual reporting.

Objective 1: Assessment and Planning

Provide the current status of your assessment and your written project plan.

Include a timeline for completion if applicable.

Confirm your written assessment addresses the following or if they are in progress:

Identify covered produce commodities that are common to your jurisdiction

Identify common farming conditions and practices in your jurisdiction

Identify unique farming conditions and practices in your jurisdiction

Review your farm inventory data

Develop an organizational structure and infrastructure needed to fulfill CAP objectives

Identify partners and collaborators that support your produce program

Assess your state or territories capabilities to respond to produce related events within the jurisdiction

Objective 2: Program Administration

- a. Confirm whether or not all produce program positions are filled, include a list of vacancies and timeline for filling them, if applicable.
- b. Staff training:
Provide the number of current staff that have completed and the number of current staff awaiting completion of training courses FD226, FD326, and FD225.
- c. Identify any topics that are needed for your staff to successfully conduct cooperative agreement work, but have not been covered in existing courses.
- d. List personnel conducting cooperative agreement work including name, title, primary CAP role, any additional CAP roles and percent of time funded by the CAP.
- f. List key accomplishments of subawards, if applicable. Include subaward entity, funding amount, confirm they met deliverables, key accomplishments, and general area(s) of work.
- g. List any entities with which the program has an MOU relevant to the CAP with a description of the MOU purpose, if applicable.
- h. Provide a list of established contracts including the contractor entity, funding amount, confirm they met expected outcomes and a description of the property or services purchased.

Objective 3: Education, Outreach, and Technical Assistance

- a. Describe, list, and quantify your education activities (other than PSA grower trainings) for farms using CAP funds and resources/materials used (examples include trainings, workshops, etc.)
- b. Describe, list, and quantify your outreach activities conducted and resources/materials used (examples include mailers, event booths, presentations, advertisements, etc.)
- c. Describe, list, and quantify your on farm and/or remote technical assistance activities (other than on farm readiness reviews)
- d. Confirm applicable items include the current Funding Acknowledgement Statement
- e. Please share any training/knowledge gaps that you feel exist for produce farms in your jurisdiction
- f. Provide the known number of (non-exempt) covered farms in your jurisdiction that still need Produce Safety Alliance (PSA) Grower Training or equivalent and the number of remaining courses you estimate needing to host

Objective 4: Farm Inventory

- a. Identify the electronic system you currently use for your farm inventory data. If it's not your final system, describe the electronic system your jurisdiction plans to use and the timeline for implementation
- b. Based on your efforts to develop your farm inventory to date, describe how complete and accurate your current verified farm inventory is
- c. Confirm if you consider your farm inventory to be still in the development phase or in the maintenance phase. If applicable, detail how and when you will transition to a maintenance phase.
- d. Confirm if you have a written procedure for farm inventory verification
- e. Confirm if you have a written procedure for farm inventory maintenance activities
- f. Confirm if your inventory system captures all categories of produce farms with produce sales

- g. Confirm if you use a registration for inventory purposes and if yes, explain (include if registration is mandatory or voluntary)
- h. If inventory development and verification efforts include on farm visits describe the visits and resources and/or materials used
- i. Provide the number of inventory verification visits conducted this budget period

Objective 5: Inspectional Program Development (Path B and Path C only)

- a. Provide the number of trained produce inspectors
- b. What is the average number of inspections per each inspector in a CAP year (July 1 - June 30)
- c. Confirm if you use the FDA Produce Assignment to guide planning and conducting inspections. If not, explain
- d. Confirm if you use the PDAT for risk based inspection prioritization
- e. Confirm if you issue a Notice of Inspection or state equivalent
- f. Do you issue the FDA 4056 or a state equivalent at the close of each inspection
- g. Confirm if you are directly citing 21 CFR 112 citations, when applicable
- h. Confirm if you complete the Produce Farm Inspection Summary Report or state equivalent for each inspection
- i. Confirm if you have a written process for making a final inspection classification
- j. Identify what electronic system you use to capture inspection data
- k. Provide the number of known (non-exempt) covered farms that have not received an initial PSR inspection
- l. After all initial inspections are completed, describe your inspection frequency and prioritization plan
- m. Confirm if you are conducting produce safety rule inspections using funds other than CAP funds. If yes, explain
- n. Confirm if you conduct joint sprout inspections with FDA under this CAP
- o. Confirm if your state conducts sprout inspections outside of this CAP. If yes, identify under what regulation do you conduct sprout inspections

Objective 6: Compliance and Enforcement (Path B and Path C only)

- a. Identify the current authority (FDA or State) used for enforcement of the Produce Safety Rule
- b. Confirm if your authority to conduct PSR inspections and enforcement subject to change. If yes, indicate and describe the proposed change and timeline
- c. Confirm if you have internal procedures to conduct the preliminary review of inspection documentation to determine a final inspection classification and deciding next steps for conducting compliance and enforcement action(s) as needed or if these procedure(s) are in progress. If no, describe your timeline to develop a procedure
- d. (Path C only) Confirm if you have a framework established for conducting for compliance and enforcement progressive actions. If not, describe your timeline to develop a framework

Objective 7: Produce Related Event Response Planning and Implementation (Path B and Path C)

- a. Based on your completed assessment (see Objective 1), confirm if your jurisdiction (e.g. any agency or entity in your state) have the capability to systematically detect, investigate, mitigate, document and analyze produce related incidents to stop, control and prevent hazards that are likely to result in a produce related illness, injury or outbreak. If not, identify the capability gaps

b. Confirm if you anticipate needing additional funding under this CAP in order to develop and implement produce response capabilities

Project Plan: A document that is reported for mid-year and annual reporting. This is expected to be a living document and is required for all paths under Objective 1 of the FOA. This document should be updated to reflect the current plans and accomplishments current to the report date.

The project plan will include overall plans, key milestones/tasks, planned start date, responsible party, a planned completion date, current status, and key accomplishments for each year of the project period for each of the program objectives in the FOA, applicable to your program path.

Assessment: Reported for mid-year and annual report. This is expected to be a living document and is required for all paths under Objective 1 of the FOA. This document should be updated with any changes for the report date.

Describe the produce landscape for your state by:

Identifying covered produce commodities common to your jurisdiction

Identifying common farming conditions and practices in your jurisdiction

Identifying unique farming conditions and practices in your jurisdiction

Review and compare farm inventory estimated data from a justifiable source and compare it to your jurisdiction's verified number of farms in inventory

Describe produce program resources for your state by:

Describing your produce program's organization structure and infrastructure needs to include staffing, facilities, equipment, materials, and supplies

Identifying and describing any unmet organization or infrastructure needs

Identifying partners and collaborators that support your produce program

Describe produce-related event response by:

Describing your produce program's ability to become aware of and capabilities to respond to produce-related events including:

Intrastate (local jurisdiction level) foodborne illness outbreak due to human pathogens

Intrastate (within state) foodborne illness outbreak due to human pathogens

Interstate foodborne illness outbreak due to human pathogens

Foodborne illness outbreak due to human pathogens implicating imported produce

Sample positive for human pathogens

Voluntary intrastate recall due to human pathogens

Voluntary interstate recall due to human pathogens

Natural events that may adulterate produce

Man-made events that may adulterate produce

Reportable Food Registry Reports

Conduct a for-cause inspection or investigation to determine root-cause

Conduct for-cause product sampling

Conduct product sample analysis

Conduct for-cause environmental sampling

Conduct environmental sample analysis

Conduct a traceback investigation (to follow the distribution chain)

Conduct investigations of related operations (compost suppliers, packing sheds) and adjacent land (CAFOs, dairies, livestock farming operations, etc.)

Publish public communications/consumer advisories

Conduct compliance and enforcement activities at farm level

Aggregate Inventory and Education Data: Report to be submitted on Dec. 1; Feb. 1; May 1; and

Sept. 1

Inventory and education data includes:

1. Produce farm inventory

Identify the total verified number of farms in inventory conducting covered activities on covered produce by farm type Large covered Small covered Very small covered Farms not covered based on produce sales <\$25K Qualified exempt Farms with only produce that is commercial processing exempt Farms with only produce under Enforcement Discretion for wine grapes, hops, almonds, or pulses

Identify the total verified number of farms in inventory with only Rarely Consumed Raw produce

For all farm types listed above EXCEPT farms with only produce under enforcement discretion for wine, grapes, hopes, almonds, or pulses and farms (all sizes) with only rarely consumed raw produce report the number of farms:

Conducting covered activities on FDA identified national priority commodities (updated annually)

Growing covered produce

Harvesting covered produce

Packing covered produce

Holding covered produce

Retailing covered produce

Processing (outside of farm definition)

Farm-mixed type facilities

2. Sprouts Inventory (if applicable)

Report the number of farms by farm type (large covered, small covered, very small covered, farms not covered based on produce sales, qualified exempt, and commercial processing exempt) where:

Produce is only sprouts

Produce is sprouts and other covered produce

3. Education & Technical Assistance – Reporting Period

List the number of:

PSA grower trainings conducted

Attendees completed PSA grower training

Farms completed PSA grower trainings

On Farm Readiness Reviews completed

Farms that received on farm technical assistance (other than OFRRs)

Farms that received remote/virtual technical assistance

Aggregate Inspection Data (PATHS B & C, only): Report to be submitted on Dec. 1; Feb. 1; May 1; and Sept. 1

Reporting Periods:

Dec. 1 includes data for Jul 1 - Oct 31

Feb. 1 includes data for Jul 1 - Dec 31

May 1 includes data for Jul 1 - Mar 31

Sept. 1 includes data for Jul 1 - Jun 30

Aggregate Inspection data includes:

1. General inspection data

By farm type (large covered, small covered, very small covered, qualified exempt, commercial processing exempt, or farms not covered based on produce sales) identify the number of:

Verified produce farms
Total farms inspected
Total inspections completed

For the reporting period:

Farms Inspected (total farms, primary production farms, secondary activities farms, farm mixed-type facilities)
Inspections completed
Inspections completed with observations
Priority commodities observed during each inspection
Farms with an improved inspection classification (From OAI to VAI or NAI, No improvement from OAI, From VAI to NAI, and No improvement from VAI)
Inspections with egregious conditions observed (# of farms, # of inspections, # of egregious observations, # of egregious observations corrected during the inspection, # of egregious observations corrected after the inspection, and # of egregious observations corrected after compliance action)

2. Inspection classification – Reporting Period

By farm type (large covered, small covered, very small covered, qualified exempt, commercial processing exempt, or farms not covered based on produce sales) and inspection classification (OAI, VAI, and NAI), identify the number of:
Inspections completed by inspection type (Initial PSR Inspections-routine and for cause; Non-initial PSR inspections – routine, follow-up, and for-cause)
OFRR conducted – Yes/No
Farm had a previous food safety audit – Yes/No
PSR Training source – PSA/Alternate curricula/None

3. Inspection observations – Reporting Period

Report the number of inspection observations by farm type (large covered, small covered, very small covered, qualified exempt, commercial processing exempt, or farms not covered based on produce sales) for the PSR regulation subparts and applicable CFR citations.

4. Compliance and enforcement – Reporting Period

Report the number of compliance activities by farm type (large covered, small covered, very small covered, qualified exempt, commercial processing exempt, or farms not covered based on produce sales) for the following:

Advisory actions (e.g. Regulatory letter, Regulatory meeting)

Administrative actions (e.g. Administrative detention, State embargo, State stop sale)

Fines/monetary penalties

Judicial actions (e.g. Seizure, Injunction, Prosecution)

Other (not inspection) (# and type)

Farms having compliance/enforcement action(s) completed this reporting period

Compliance follow-up inspections

Farms having a compliance follow-up inspection

Compliance follow-up inspections resulting in an improved inspection classification from the previous inspection

Farms having a compliance follow-up inspections resulting in an improved inspection classification from the previous inspection

Number of recalls

- Total volume of products recalled
5. Sprouts (if applicable) – Reporting Period
- By farm type (large covered, small covered, very small covered, qualified exempt, commercial processing exempt, under \$25K), identify the number of:
- Farms conducting covered activities on Sprouts in state inventory
 - Joint with FDA subpart M sprout inspections this reporting period
 - Sprout compliance actions taken by the State during this reporting period

Educational Needs Assessment (ENA): Report submitted prior to the development of any new trainings and/or materials to conduct education, outreach, and/or technical assistance using funding under this CAP.

An educational needs assessment (ENA) is required to be completed and pre-approved by FDA, prior to the development of any new trainings and/or materials per FOA, Objective 3f. ENAs will not be accepted after the recipient has begun development of or completed any work/activities. **If an ENA is not submitted for an activity that requires submission of an ENA, that work/activity is out of scope and any related expenses will not be allowable under the CAP. Any activities/work without a pre-approved ENA will be unallowable and no CAP funds can be used.** To determine if an ENA is required, the grantee should inform their FDA Project Manager prior to initiating an educational needs assessment.

The Educational Needs Assessment elements include:

Submission Date (MM/DD/YYYY)

State/Territory (abbreviation)

Project POC

Proposed project

List all collaborating agencies/entities for project and describe role(s):

Include a link or attach to submission any existing materials or resources that will be used in the development of your project.

What need does this project address?

Target audience

Provide details on how will you use this project to accomplish CAP objectives once it's developed.

Mechanism for project dissemination to target audience

Mechanism for sharing the project externally for other produce programs to use

What subpart(s) (A-Q) of the PSR does the project address?

If applicable, what citation number of the PSR does the project address?

What data do you have that supports the need for this project?

Did you search/research existing resources that may address your need? If yes, what existing resource(s) did you review that did not meet your need?

How will your project be reviewed for PSR alignment prior and during development?

What is the proposed date your project will be complete?

Project Budget and Budget Justification

How will you evaluate the effectiveness of the project?

Direct inquiries regarding fiscal, grants policy, procedures and/or administrative matters to the grants management specialist listed below.

Direct inquiries regarding scientific, technical and programmatic issues to the program official listed below.

All formal correspondence/reports regarding the grant should be signed by an authorized institutional official and the Principal Investigator and should be sent to the attention of the grants management specialist, unless otherwise explicitly directed.