MAR06'23 AM 9:13 RCVD

STATE OF NEW HAMPSHIRE
DEPARTMENT of NATURAL and CULTURAL RESOURCES
**DIVISION OF FORESTS AND LANDS**

172 Pembroke Road Concord, New Hampshire 03301
Phone: 271-2214 Fax: 271-6488 www.nhdfl.org

55

February 16, 2023

The Honorable Ken Weyler, 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 14:30-a, VI, the Department of Natural and Cultural Resources (DNCR), Division of Forests and Lands requests to accept and expend Federal Bipartisan Infrastructure Law- State Forest Action Plan Implementation (BIL-SFAP) grant funds in the amount of $270,999 from the United States Department of Agriculture, United States Forest Service (USFS) to be used for projects on state and private forests in New Hampshire, effective upon Fiscal Committee and Governor and Council approval through June 30, 2023. 100% Federal Funds.

Funds are to be budgeted in fiscal year 2023 as follows:

03-035-035-351010-35290000, State Fire Assistance - II

| Class-Account-RG | Description | FY23 Current Adjusted Authorized | Requested Action | Revised FY23 Adjusted Authorized |
|---|---|---|---|---|
| 000-404549-16 | Federal Funds | $526,979 | $16,059 | $543,038 |
| | **Total Revenue** | **$526,979** | **$16,059** | **$543,038** |
| 018-500106 | Overtime | $22,080 | $0 | $22,080 |
| 019-500105 | Holiday | $658 | $0 | $658 |
| 020-500200 | Current Expenses | $25,658 | $0 | $25,658 |
| 029-500290 | Intra-Agency Transfers | $117,552 | $0 | $117,552 |
| 030-500311 | Equipment New Replacement | $541 | $0 | $541 |
| 039-500190 | Telecommunications | $11,668 | $479 | $12,147 |
| 040-501587 | Indirect Cost | $54,496 | $1,697 | $56,193 |
| 041-500801 | Audit Fund | $825 | $16 | $841 |
| 042-500620 | Additional Fringe Benefits | $18,665 | $0 | $18,665 |
| 050-500109 | Personal Service Temp Appoi | $113,144 | $12,882 | $126,026 |

| | | | | |
|---|---|---|---|---|
| 059-500117 | Temp Full Time | $5,049 | $0 | $5,049 |
| 060-500602 | Benefits | $67,230 | $985 | $68,215 |
| 070-500705 | In State Travel Reimbursement | $34,959 | $0 | $34,959 |
| 072-502643 | Grants Federal | $36,428 | $0 | $36,428 |
| 080-500713 | Out of State Travel Reimb | $18,026 | $0 | $18,026 |
| 103-502507 | Contracts for Op Services | $0 | $0 | $0 |
| | **Total Expenses** | **$526,979** | **$16,059** | **$543,038** |

Funds are to be budgeted in fiscal year 2023 as follows:

03-035-035-351010-35160000, Forest Health - Federal

| Class-Account-RG | Description | FY23 Current Adjusted Authorized | Requested Action | Revised FY23 Adjusted Authorized |
|---|---|---|---|---|
| 000-404796-16 | Federal Funds | $360,936 | $100,584 | $461, 520 |
| | **Total Revenue** | **$360,936** | **$100,584** | **$461, 520** |
| 010-500100 | Personal Services Perm Clas | $62,138 | $15,000 | $77,138 |
| 018-500106 | Overtime | $12,000 | $0 | $12,000 |
| 020-500200 | Current Expenses | $23,690 | $13,000 | $36,690 |
| 022-500255 | Rents-Leases Other Than State | $600 | $0 | $600 |
| 023-500291 | Heat Electricity Water | $5,667 | $0 | $5,667 |
| 029-500290 | Intra-Agency Transfers | $56,849 | $0 | $56,849 |
| 030-500311 | Equipment New Replacement | $9,173 | $13,508 | $22,681 |
| 039-500190 | Telecommunications | $4,426 | $0 | $4,426 |
| 040-501587 | Indirect Cost | $12,149 | $1,976 | $14,125 |
| 041-500801 | Audit Fund | $395 | $100 | $495 |
| 042-500620 | Additional Fringe Benefits | $8,829 | $0 | $8,829 |
| 050-500109 | Personal Service Temp Appoi | $32,000 | $12,000 | $44,000 |
| 060-500602 | Benefits | $39,912 | $7,000 | $46,912 |
| 070-500705 | In State Travel Reimbursement | $5,299 | $0 | $5,299 |
| 072-500574 | Grants Federal | $58,741 | $30,000 | $88,741 |
| 080-500713 | Out of State Travel Reimb | $27,794 | $8,000 | $35,794 |
| 211-501530 | Property and Casualty Insurance | $1,274 | $0 | $1,274 |
| | **Total Expenses** | **$360,936** | **$100,584** | **$461,520** |

Funds are to be budgeted in fiscal year 2023 as follows:

03-035-035-351010-35470000, Urban Forestry Assistance

| Class-Account-RG | Description | FY23 Current Adjusted Authorized | Requested Action | Revised FY23 Adjusted Authorized |
|---|---|---|---|---|
| 000-404477-16 | Federal Funds | $580,674 | $54,200 | $634,874 |
| | **Total Revenue** | **$580,674** | **$54,200** | **$634,874** |
| 010-500100 | Personal Services Perm Clas | $132,684 | $0 | $132,684 |
| 018-500106 | Overtime | $13,583 | $0 | $13,583 |
| 020-500200 | Current Expenses | $32,606 | $32,046 | $64,652 |
| 023-500291 | Heat Electricity Water | $14,212 | $0 | $14,212 |
| 027-582703 | Transfers to DoIT | $562 | $0 | $562 |
| 029-500290 | Intra-Agency Transfers | $29,158 | $0 | $29,158 |
| 039-500190 | Telecommunications | $9,908 | $0 | $9,908 |
| 040-501587 | Indirect Cost | $37,676 | $0 | $37,676 |
| 041-500801 | Audit Fund | $722 | $54 | $776 |
| 042-500620 | Additional Fringe Benefits | $28,408 | $0 | $28,408 |
| 050-500109 | Personal Service Temp Appoi | $42,692 | $0 | $42,692 |
| 060-500602 | Benefits | $86,652 | $0 | $86,652 |
| 066-500543 | Employee Training | $4,595 | $0 | $4,595 |
| 070-500705 | In State Travel Reimbursement | $12,844 | $500 | $13,344 |
| 072-500574 | Grants Federal | $125,083 | $0 | $125,083 |
| 080-500710 | Out of State Travel Reimb | $7,934 | $0 | $7,934 |
| 103-502664 | Contracts for Operational Services | $0 | $21,600 | $21,600 |
| 211-501530 | Property and Casualty Insurance | $1,355 | $0 | $1,355 |
| | **Total Expenses** | **$580,674** | **$54,200** | **$634,874** |

Funds are to be budgeted in fiscal year 2023 as follows:

03-035-035-351010-35000000, Forests & Lands Administration

| Class-Account-RG | Description | FY23 Current Adjusted Authorized | Requested Action | Revised FY23 Adjusted Authorized |
|---|---|---|---|---|
| 000-400338-16 | Federal Funds | $250,250 | $100,156 | $350,406 |
| OOS-000010 | General Funds | $450,976 | $0 | $450,976 |
| | **Total Revenue** | **$701,226** | **$100,156** | **$801,382** |
| 010-500100 | Personal Services Perm Clas | $102,332 | $0 | $102,332 |

| | | | | |
|---|---|---|---|---|
| 011-500126 | Personal Services Unclassified | $88,339 | $0 | $88,339 |
| 020-500200 | Current Expenses | $6,199 | $0 | $6,199 |
| 022-500255 | Rents-Leases Other Than State | $3,393 | $0 | $3,393 |
| 023-500291 | Heat Electricity Water | $250 | $0 | $250 |
| 026-500251 | Organizational Dues | $11,200 | $0 | $11,200 |
| 039-500190 | Telecommunications | $5,000 | $0 | $5,000 |
| 041-500801 | Audit Fund | $250 | $100 | $350 |
| 045-509045 | Personal Services Non Benefit | $115,000 | $0 | $115,000 |
| 060-500602 | Benefits | $115,963 | $0 | $115,963 |
| 070-500705 | In State Travel Reimbursement | $3,000 | $0 | $3,000 |
| 072-500577 | Grants Federal | $250,000 | $100,056 | $350,056 |
| 211-501530 | Property and Casualty Insurance | $300 | $0 | $300 |
| | **Total Expenses** | **$701,226** | **$100,156** | **$801,382** |

## EXPLANATION

In the US Department of Agriculture's 2008 Farm Bill, under Title VII – Forestry, (reauthorized in the 2018 Farm Bill) the Cooperative Forestry Assistance Act includes the requirement that each state develop a long-term, statewide assessment and strategies for its forest resources. These assessments and strategies (collectively referred to as state Forest Action Plans) are required to receive Cooperative Forestry Assistance Funds. Funding focuses on five key program area – Forest Health, Forest Fire Assistance, Private Land Stewardship, Urban Forestry Assistance, and the Forest Legacy Program. The plan is also required to address the three USDA Forest Service national priorities – conserve and manage working forest landscapes for multiple values and uses; protect forests from threats and enhance public benefits from trees and forests.

The NH State Forest Action Plan (SFAP) is a **10-year strategic plan for the New Hampshire's forests** that provides long term, comprehensive, and coordinated strategies for addressing the challenges and opportunities facing New Hampshire's forests.

**Wildland fire detection, prevention, and suppression**- State Fire Assistance (SFA) Funds will allow the Division of Forests and Lands to provide wildland fire prevention, suppression, and prescribed fire services throughout the state. The State of New Hampshire is the second most forested state in the country, with approximately 4.8 million acres of forestland covering roughly 84% of the land area. The Division of Forests and Lands is responsible for providing wildland fire detection, prevention, and suppression on all lands in the state, except within the boundaries of the White Mountain National Forest. This accounts for over 4.1 million acres that fall under state jurisdiction for wildland fire protection. The State is committed to an aggressive attack on all wildland fires, with an objective of keeping the number of wildfires and acreage burned to a minimum.

Grant funds will support and expand the overall operations of the Division's wildland fire management program. Projects funded through this grant will help reduce the number of wildfire ignitions, reduce acreage burned, increase safety of firefighters, and increase protection for communities. This will be accomplished through supporting our suppression and prescribed fire programs, and through the purchase of necessary equipment; all of which will support our forest rangers, patrol and fire tower staff, local fire departments and communities and wildfire partners. Partners include community fire departments, the White Mountain National Forest, NH Division of Homeland Security and Emergency Preparedness, NH Fish and Game Department, NH Department of Military Affairs and Veterans Services, NH Department of Environmental Services, The National Weather Service, NH Association of Fire Chiefs, NH Forest Fire Warden's Associations, Northeast Forest Fire Protection Compact, Northeast interagency Coordination Center, The Nature Conservancy, the University of New Hampshire Cooperative Extension program, and many others.

**Forest Health** - the Federal BIL-SFAP grant will provide funding to implement projects designed to fulfil the strategies of the plan's forest health focus area. Projects will include implementing pre-commercial thinning of young white pine forests, upgrading equipment at the insect and disease lab; treating outbreaks of invasive plants and insects; establishing an orchard of resistant butternut hybrids at the state nursery; and collecting wild populations of *Laricobius nigrinus* - the biocontrol for hemlock woolly adelgid, for distribution at infested stands in NH.

**Urban Forestry Assistance** - our goal is to engage citizens and resource professionals to protect and promote community trees. Grant funds will be used in three focus areas; tree planting in underserved communities; hosting an urban and community conference for municipal staff and volunteers; and providing regional hands-on educational classes about tree care and maintenance.

Our program staff will work with community leaders using information from sources such as American Forests' Equity Calculator, local non-profits, and public input to select three qualified communities with the capacity to assist with this project. Trees will be planted will be in schoolyards, parks, rights-of-way, and on private property if applicable. Local landscapers will be contracted to assist with some of the tree planting projects.

Funds will also be used to conduct an urban and community forestry conference for municipal staff, community leaders, volunteers, and green industry members. The goal of this conference is to provide up-to-date education and training on the care and maintenance of urban trees. Topics will be based on results from the recent Community Needs Assessment. The remaining funds will be used to host community-based hands-on trainings for municipal staff working in the field.

**Private Land Stewardship** - *Good Forestry in the Granite State* is a document for forestland owners and the professionals who work with them that provides recommended voluntary forest management practices for New Hampshire's forests. This guide fulfills State Law (RSA 227-I:4 Recommended Forest Management Practices) requiring the New Hampshire Division of Forests and Lands to provide educational tools identifying recommended voluntary forest management practices. The mission of the division is to "protect and promote the values provided by trees and forests." The purpose of *Good Forestry in the Granite State* is to provide forestland owners and the professionals who work with them practical recommendations and information on a wide variety of forest resources to help them make informed decisions that sustain New Hampshire's forests for today and the future.

*Good Forestry in the Granite State*, last revised in 2010, will update to reflect the needs of the focus areas in the State Forest Action Plan and the needs of the forestland and forest owners of New Hampshire. This process will be led by UNH Cooperative Extension with the State Forester/Director of the Division of Foresters and Lands and the Good Forestry in the Granite State (GFGS) steering committee. The GFGS steering committee will be formed to create the process for revision, identify new chapters, and to assemble the technical teams. Technical teams will revise/add specific chapters and be made up of stakeholders and content specialists. An independent facilitator/consultant will be hired to coordinate the steering committee and technical teams to build consensus and meet revision deadlines created by the steering committee. In addition to the revision of GFGS, on-site technical and educational assistance will be provided to private forest owners to increase their ability to make informed decisions regarding their managing their forestland. As appropriate, landowners will be encouraged to develop a forest stewardship plan written by private-sector foresters that incorporate new findings and additions from GFGS.

**The following appropriation authorities are being requested for AU 35290000:**

Class 039 – Telecommunications – Appropriation needed to pay for cell phone services;

Class 040 – Indirect Costs – Appropriation needed to pay for required indirect costs associated with the grant;

Class 041 – Audit Fund Set Aside – Appropriation needed to pay for required audit fund set aside required for the grant;
Class 050 – Personal Service Temp – Appropriation needed to pay for a part-time prescribed fire coordinator position;
Class 060 – Benefits – Appropriation needed to pay associated fringe benefits on the part-time position.

**The following appropriation authorities are being requested for AU 35160000:**

Class 010 – Personal Services Perm Classified – Additional funds to pay for time spent managing the projects

Class 020 – Current Expenses – Additional funds to pay for supplies and equipment

Class 030 – Equipment New Replacement – Additional funds to upgrade lab space and replace cabinets

Class 040 – Indirect Cost - funds to pay current State indirect charges

Class 041 – Audit Fund Set Aside – Appropriation needed to pay for required audit fund set aside required for the grant;
Class 050 – Personal Service Temp – Appropriation needed to pay for seasonal technicians to treat invasive pests

Class 060 – Benefits – Appropriation needed to pay additional payroll benefits

Class 072 – Grants Federal – Appropriation needed to pay contractors for forestry operations related to white pine pre-commercial thinning

Class 080 – Out of State Travel - Appropriation needed to pay additional expenses related to collecting biocontrol parasitoids in the mid-Atlantic region

**The following appropriation authorities are being requested for AU 35470000:**

Class 020 – Current Expenses – Appropriation needed to pay for approximately 60-75 trees and supplies; educational training material will also be purchased and provided to attendees.

Class 041 – Audit Fund Set Aside – Appropriation needed to pay for required audit fund set aside required for the grant;

Class 070 – In State Travel – Appropriation needed to pay for State vehicle travel cost to inspect sites and to transport trees.

Class 103 – Contracts for Operational Services – Appropriation needed to contract with a nonprofit organization to help coordinate regional trainings, funds will also be used to contract with landscapers to assist with tree plantings.

**The following appropriation authorities are being requested for AU 35000000:**

Class 041 – Audit Fund Set Aside – Appropriation needed to pay for required audit fund set aside required for the grant;

Class 072 – Grants Federal – Appropriation needed to provide UNH Cooperative Extension with the funds to update *Good Forestry in the Granite State* reflective of focus areas in the State Forest Action Plan

In the event Federal Funds are no longer available, General Funds will not be requested to support this request.

Respectfully submitted,

Patrick D. Hackley

Patrick D. Hackley
Director

Concurred,

CSM

Sarah Stewart

Sarah L. Stewart
Commissioner

**Department of Natural and Cultural Resources**
**GRANTS FISCAL SITUATION FISCAL YEAR 2023**

| | |
|---|---|
| Total Federal Authorization | $ 270,999 |
| Less Current FY23 Budget Authorization | $ 0 |
| Total Available for Budgeting | $ 270,999 |
| Available to Budget at a Later Date | $ 0 |
| **REQUESTED ACTION** | **$ 270,999** |
| 03-035-035-351010-35290000, State Fire Assistance – II | $ 16,059 |
| 03-035-035-351010-35160000, Forest Health - Federal | $ 100,584 |
| 03-035-035-351010-35470000, Urban Forestry Assistance | $ 54,200 |
| 03-035-035-351010-35000000, Forests & Lands Administration | $ 100,156 |

| Grant Award Number | Award Amount | Expenses to 6/30/22 | Balance |
|---|---|---|---|
| 23-DG-11094200-030 | $270,999 | $0 | $270,999 |

**FEDERAL FINANCIAL ASSISTANCE**
**AWARD OF DOMESTIC GRANT 23-DG-11094200-030**
**Between The**
**NATURAL AND CULTURAL RESOURCES, NEW HAMPSHIRE DEPARTMENT OF**
**And The**
**USDA, FOREST SERVICE**
**REGION 9, STATE AND PRIVATE FORESTRY**

Program Title: NEW HAMPSHIRE STATE FOREST ACTION PLAN IMPLEMENTATION GRANT (COOPERATIVE FIRE; FOREST HEALTH; FOREST STEWARDSHIP; AND URBAN AND COMMUNITY FORESTRY PROGRAMS)

Upon execution of this document, an award to NATURAL AND CULTURAL RESOURCES, NEW HAMPSHIRE DEPARTMENT OF, hereinafter referred to as "NH DNCR," in the amount of **$270,999**, is made under the authority of Cooperative Forestry Assistance Act, P.L. 95-313 as amended, 16 U.S.C. 2101 et seq. The Federal Assistance Listing (formerly Catalog of Federal Domestic Assistance - CFDA) number and name are 10.664 Cooperative Forestry Program - State Forest Action Plans (SFAP). NATURAL AND CULTURAL RESOURCES, NEW HAMPSHIRE DEPARTMENT OF accepts this award for the purpose described in the application narrative. Your application for Federal financial assistance, dated 09/29/2022, and the attached Forest Service provisions, 'Forest Service Award Provisions,' are incorporated into this letter and made a part of this award.

This authority requires a match, however your organization has an approved match waiver on file. Therefore, no match is required for this award as shown in the attached application, financial plan and narrative.

| **Description** | **Federal Grant** |
|---|---|
| Forest Stewardship | $100,156 |
| Urban & Community Forestry | $54,200 |
| Forest Heath | $100,584 |
| State Fire Assistance | $16,059 |
| **Total** | $270,999 |

All required reports and official correspondence must be sent to SM.FS.R9SPFgrants@usda.gov and assigned Forest Service Program Manager for internal record keeping and processing.

This is an award of Federal financial assistance. Prime and sub-recipients to this award are subject to the OMB guidance in subparts A through F of 2 CFR Part 200 as adopted and supplemented by the USDA in 2 CFR Part 400. Adoption by USDA of the OMB guidance in 2 CFR 400 gives regulatory effect to the OMB guidance in 2 CFR 200 where full text may be found.

Electronic copies of the CFRs can be obtained at the following internet site: www.ecfr.gov. If you are unable to retrieve these regulations electronically, please contact your Grants and Agreements Office at SM.FS.R9SPFgrants@usda.gov.

The following administrative provisions apply to this award:

A. LEGAL AUTHORITY. NH DNCR shall have the legal authority to enter into this award, and the institutional, managerial, and financial capability to ensure proper planning, management, and completion of the project, which includes funds sufficient to pay the non-Federal share of project costs, when applicable.

B. PRINCIPAL CONTACTS. Individuals listed below are authorized to act in their respective areas for matters related to this award.

**Principal Cooperator Contacts:**

| | |
|---|---|
| **Cooperative State Fire Assistance Cooperator Program Contact** | **Cooperator Administrative Contact** |
| Name: Steven Sherman<br>Address: 172 Pembroke Road<br>City, State, Zip: Concord, NH 03301<br>Telephone: 603-271-2214<br>Email: steven.sherman@dncr.nh.gov | Name: Leslie Sherman<br>Address: 172 Pembroke Road City, State, Zip: Concord, NH 03301<br>Telephone: 603-271-2214<br>Email: Leslie.a.sherman@dncr.nh.gov |
| **Cooperative Forest Health Cooperator Program Contact** | **Forest Stewardship Cooperator Program Contact** |
| Name: Kyle Lombard<br>Address: 172 Pembroke Road<br>City, State, Zip: Concord, NH 03301<br>Telephone: 603-464-3016<br>Email: kyle.lombard@dncr.nh.gov | Name: Steven S. Roberge, UNH Coop Ext<br>Address: 131 Main Street<br>City, State, Zip: Durham, NH 03824<br>Telephone: 603-674-7095<br>Email: steven.roberge@unh.edu |
| **Urban and Community Forestry Cooperator Program Contact** | |
| Name: Liz McKinley<br>Address: 172 Pembroke Road<br>City, State, Zip: Concord, NH 03301<br>Telephone: 603-271-2901<br>Email:<br>Elizabeth.c.mckinley@dncr.nh.gov | |

**Principal Forest Service Contacts:**

| Cooperative Fire Forest Service Program Manager Contact | Forest Service Administrative Contact |
|---|---|
| Name: Raymond Parrish<br>Address: 626 E. Wisconsin Ave.<br>City, State, Zip: Milwaukee, WI 53202<br>Telephone: 414-323-0859<br>Email: Raymond.j.parrish@usda.gov | Name: Sandra Krzewinski<br>Address: 626 E. Wisconsin Ave.<br>City, State, Zip: Milwaukee, WI 53202<br>Telephone: 262-202-3831<br>Email: Sandra.krzewinski@usda.gov |
| **Forest Stewardship Forest Service Program Manager Contact** | **Forest Health Forest Service Program Manager Contact** |
| Name: Peter Beringer<br>Address: 271 Mast Rd<br>City, State, Zip: Durham, NH 03824<br>Telephone: 603-868-7699<br>Email: peter.beringer@usda.gov | Name: Michael Bohne<br>Address: 271 Mast Rd<br>City, State, Zip: Durham, NH 03824<br>Telephone: 603-868-7708<br>Email: michael.bohne@usda.gov |
| **Urban and Community Forest Service Program Manager Contact** | |
| Name: Danielle Gift<br>Address: 271 Mast Rd<br>City, State, Zip: Durham, NH 03824<br>Telephone: 603-397-2658<br>Email: danielle.gift@usda.gov | |

C. SYSTEM FOR AWARD MANAGEMENT REGISTRATION REQUIREMENT (SAM). NH DNCR shall maintain current information in the System for Award Management (SAM) until receipt of final payment. This requires review and update to the information at least annually after the initial registration, and more frequently if required by changes in information or award term(s). Additional information about registration procedures may be found at the SAM Internet site at www.sam.gov.

D. ADVANCE AND REIMBURSABLE PAYMENTS – FINANCIAL ASSISTANCE. Advance and reimbursable payments are approved under this award. Only costs for those project activities approved in (1) the initial award, or (2) modifications thereto, are allowable. Requests for payment must be submitted on Standard Form 270 (SF-270), Request for Advance or Reimbursement, and must be submitted no more than monthly. In order to approve a Request for Advance Payment or Reimbursement, the Forest Service shall review such requests to ensure advances or payments for reimbursement are in compliance and otherwise consistent with OMB, USDA, and Forest Service regulations.

Advance payments must not exceed the minimum amount needed or no more than is needed for a 30-day period, whichever is less. If the Recipient receives an advance payment and subsequently requests an advance or reimbursement payment, then the request must clearly demonstrate that the previously advanced funds have been fully expended before the Forest Service can approve the request for payment. Any funds advanced, but not spent, upon expiration of this award must be returned to the Forest Service.

The Program Manager reserves the right to request additional information prior to approving a payment. To expedite payment, please attach a list of expenses that match the approved project budget when submitting each SF-270. Each SF-270 shall include the award number (23-DG-11094200-030) in Block 4. A final SF-270 must have a final performance report submitted prior to its approval.

| The invoice must be sent by one of three methods: | Send a copy to: |
|---|---|
| EMAIL (preferred): SM.FS.asc_ga@usda.gov<br>FAX: 877-687-4894<br>POSTAL: Albuquerque Service Center<br>Payments – Grants & Agreements<br>101B Sun Ave NE<br>Albuquerque, NM 87109 | Constance.carpenter@usda.gov |

E. INDIRECT COST RATES. The approved indirect cost rate at the time of execution is **13.17%** as shown in the NICRA provided by the Cooperator.

As new NICRAs are agreed to between NH DNCR and their cognizant audit agency, the revised provisional or final rate(s) are automatically incorporated into this award, as appropriate, and must specify (1) the agreed upon rates, (2) the bases to which the rates apply, (3) the fiscal year for which the rates apply, and (4) the items treated as direct costs. The award obligation will not increase as a result of indirect cost rate increases. Updates to NICRAs will not affect the total funds available for this award unless documented in a formally executed modification.

If the NICRA is for a provisional rate, NH DNCR shall be reimbursed at the established provisional rate(s), subject to appropriate adjustment when the final rate(s) for the fiscal year are established.

F. PRIOR WRITTEN APPROVAL. NH DNCR shall obtain prior written approval pursuant to conditions set forth in 2 CFR 200.407.

G. MODIFICATIONS. Modifications within the scope of this award must be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least 90 days prior to implementation of the requested change. The Forest Service is not obligated to fund any changes not properly approved in advance.

H. PERIOD OF PERFORMANCE. This agreement is executed as of the date of the Forest Service signatory official signature. Pre-award costs are authorized as of 10/01/2022 pursuant to 2 CFR 200.458.

The end date, or expiration date is **09/30/2027**. This instrument may be extended by a properly executed modification. *See Modification Provision above.*

I. AUTHORIZED REPRESENTATIVES. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this award. In witness whereof the parties hereto have executed this award.

Patrick D. Hackley
Digitally signed by Patrick D. Hackley
Date: 2022.12.22 15:50:39 -05'00'

12/22/2022

PATRICK D. HACKLEY, Director — Date
Natural and Cultural Resources, New Hampshire Department Of

ROBERT LUECKEL
Digitally signed by ROBERT LUECKEL
Date: 2022.12.22 20:01:04 -06'00'

12/22/2022

ROBERT LUECKEL, Deputy Regional Forester — Date
USDA, Forest Service, Eastern Region, State and Private Forestry

The authority and the format of this award have been reviewed and approved for signature.

Sandra Krzewinski
Digitally signed by SANDRA KRZEWINSKI
Date: 2022.12.22 13:58:33 -06'00'

12/22/2022

SANDRA KRZEWINSKI — Date
Forest Service Grants Management Specialist

# ATTACHMENT A: FOREST SERVICE AWARD PROVISIONS

A. COLLABORATIVE ARRANGEMENTS. Where permitted by terms of the award and Federal law, NH DNCR a may enter into collaborative arrangements with other organizations to jointly carry out activities with Forest Service funds available under this award.

B. FOREST SERVICE LIABILITY TO THE RECIPIENT. The United States shall not be liable to NH DNCR for any costs, damages, claims, liabilities, and judgments that arise in connection with the performance of work under this award, including damage to any property owned by NH DNCR or any third party.

C. NOTICES. Any notice given by the Forest Service or NH DNCR will be sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

To the Forest Service Program Manager, at the address specified in the award.

To NH DNCR, at the address shown in the award or such other address designated within the award.

Notices will be effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.

D. SUBAWARDS. Prior approval is required to issue subawards under this grant. The intent to subaward must be identified in the approved budget and scope of work and approved in the initial award or through subsequent modifications. Approval of each individual subaward is not required, however the cooperator must document that each sub-recipient does NOT have active exclusions in the System for Award Management (sam.gov).

The Cooperator must also ensure that they have evaluated each subrecipient's risk in accordance with 2 CFR 200.332 (b).

Any subrecipient under this award must be notified that they are subject to the OMB guidance in subparts A through F of 2 CFR Part 200, as adopted and supplemented by the USDA in 2 CFR Part 400. Any sub-award must follow the regulations found in 2 CFR 200.331 through .333.

All subawards $30,000 or more must be reported at fsrs.gov in compliance with 2 CFR 170. *See Attachment B for full text.*

E. FINANCIAL STATUS REPORTING. A Federal Financial Report, Standard Form SF-425 (and Federal Financial Report Attachment, SF-425A, if required for reporting multiple awards), must be submitted quarterly. These reports are due 30 days after the reporting period ending March 31, June 30, September 30, and December 31. The final

SF-425 (and SF-425A, if applicable) must be submitted either with the final payment request or no later than 120 days from the expiration date of the award. These forms may be found at https://www.grants.gov/web/grants/forms.html.

F. PROGRAM PERFORMANCE REPORTS. The recipient shall perform all actions identified and funded in application/modification narratives within the performance period identified in award.

In accordance with 2 CFR 200.301, reports must relate financial data to performance accomplishments of the federal award.

NH DNCR shall submit quarterly performance reports. These reports are due 30 days after the reporting period ending March 31, June 30, September 30, and December 31. The final performance report shall be submitted either with NH DNCR's final payment request, or separately, but not later than 120 days from the expiration date of the award.

- To prevent payment delays, all reports should be emailed to SM.FS.R9SPFgrants@usda.gov and the U.S. Forest Service Program Manager prior to their respective due dates. Please ensure the subject line of the email contains the award number (23-DG-11094200-030) and the report type being submitted.
- All final performance reports must be submitted and approved prior to approval of the final SF-270 payment request.

G. NOTIFICATION. NH DNCR shall immediately notify the Forest Service of developments that have a significant impact on the activities supported under this award. Also, notification must be given in case of problems, delays or adverse conditions that materially impair the ability to meet the objectives of the award. This notification must include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.

H. CHANGES IN KEY PERSONNEL. Any revision to key personnel identified in this award requires notification of the Forest Service Program Manager by email or letter.

I. USE OF FOREST SERVICE INSIGNIA. In order for NH DNCR to use the Forest Service insignia on any published media, such as a Web page, printed publication, or audiovisual production, permission must be granted by the Forest Service's Office of Communications (Washington Office). A written request will be submitted by Forest Service, Program Manager, to the Office of Communications Assistant Director, Visual Information and Publishing Services prior to use of the insignia. The Forest Service Program Manager will notify NH DNCR when permission is granted.

J. FUNDING EQUIPMENT. Federal funding under this award is not available for reimbursement of NH DNCR's purchase of equipment. Equipment is defined as having a fair market value of $5,000 or more per unit and a useful life of over one year. Supplies are those items that are not equipment.

K. PUBLIC NOTICES. It is Forest Service's policy to inform the public as fully as possible of its programs and activities. NH DNCR is encouraged to give public notice of the receipt of this award and, from time to time, to announce progress and accomplishments.

NH DNCR may call on Forest Service's Office of Communication for advice regarding public notices. NH DNCR is requested to provide copies of notices or announcements to the Forest Service Program Manager and to Forest Service's Office Communications as far in advance of release as possible.

L. FOREST SERVICE ACKNOWLEDGED IN PUBLICATIONS, AUDIOVISUALS, AND ELECTRONIC MEDIA. NH DNCR shall acknowledge Forest Service support in any publications, audiovisuals, and electronic media developed as a result of this award. Follow direction in USDA Supplemental 2 CFR 415.2.

M. COPYRIGHTING. NH DNCR is/are granted sole and exclusive right to copyright any publications developed as a result of this award. This includes the right to publish and vend throughout the world in any language and in all media and forms, in whole or in part, for the full term of copyright and all renewals thereof in accordance with this award.

No original text or graphics produced and submitted by the Forest Service shall be copyrighted. The Forest Service reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use the work for federal government purposes.

This right shall be transferred to any sub-awards or subcontracts.

This provision includes:

- The copyright in any work developed by NH DNCR under this award.
- Any right of copyright to which NH DNCR purchase(s) ownership with any federal contributions.

N. NONDISCRIMINATION STATEMENT – PRINTED, ELECTRONIC, OR AUDIOVISUAL MATERIAL. NH DNCR shall include the following statement, in full, in any printed, audiovisual material, or electronic media for public distribution developed or printed with any Federal funding.

*In accordance with Federal law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, disability, and reprisal or retaliation for prior civil rights activity. (Not all prohibited bases apply to all programs.)*

*Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, and American Sign Language) should contact the responsible State or local Agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.*

*To file a program discrimination complaint, a complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form, which can be obtained online at https://www.ocio.usda.gov/document/ad-3027, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:*

*(1) Mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, D.C. 20250-9410; o*
*(2) Fax: (833) 256-1665 or (202) 690-7442; or*
*(3) Email: program.intake@usda.gov.*

If the material is too small to permit the full Non-Discrimination Statement to be included, the material will, at a minimum, include the alternative statement:
***"This institution is an equal opportunity provider."***

O. DISPUTES.

1. Any dispute under this award shall be decided by the Signatory Official. The Signatory Official shall furnish NH DNCR a written copy of the decision.

2. Decisions of the Signatory Official shall be final unless, within 30 days of receipt of the decision of the Signatory Official, NH DNCR appeal(s) the decision to the Forest Service's Director, State & Private Forestry (SPF). Any appeal made under this provision shall be in writing and addressed to the Director, SPF, USDA, Forest Service, Washington, DC 20024. A copy of the appeal shall be concurrently furnished to the Signatory Official.

3. In order to facilitate review on the record by the Director, SPF, NH DNCR shall be given an opportunity to submit written evidence in support of its appeal. No hearing will be provided.

4. A decision under this provision by the Director, SPF is final.

5. The final decision by the Director, SPF does not preclude NH DNCR from pursuing remedies available under the law.

P. AWARD CLOSEOUT. NH DNCR must submit, no later than 120 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the Federal award.

Any unobligated balance of cash advanced to NH DNCR must be immediately refunded to the Forest Service, including any interest earned in accordance with 2 CFR 200.344(d).

If this award is closed without audit, the Forest Service reserves the right to disallow and recover an appropriate amount after fully considering any recommended disallowances resulting from an audit which may be conducted later.

Q. TERMINATION. This award may be terminated, in whole or part pursuant to 2 CFR 200.340.

R. DEBARMENT AND SUSPENSION. NH DNCR shall immediately inform the Forest Service if they or any of their principals are presently excluded, debarred, or suspended from entering into covered transactions with the federal government according to the terms of 2 CFR Part 180. Additionally, should NH DNCR or any of their principals receive a transmittal letter or other official federal notice of debarment or suspension, then they shall notify the Forest Service without undue delay. This applies whether the exclusion, debarment, or suspension is voluntary or involuntary. The Recipient shall adhere to 2 CFR Part 180 Subpart C in regards to review of sub-recipients or contracts for debarment and suspension.

All subrecipients and contractors must complete the form AD-1048, Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion, Lower Tier Covered Transactions. Blank forms are available electronically. Completed forms must be kept on file with the primary recipient.

S. MEMBERS OF CONGRESS. Pursuant to 41 U.S.C. 22, no member of, or delegate to, Congress shall be admitted to any share or part of this award, or benefits that may arise therefrom, either directly or indirectly.

T. TRAFFICKING IN PERSONS.

1. Provisions applicable to a Recipient that is a private entity.

   a. You as the Recipient, your employees, Subrecipients under this award, and Subrecipients' employees may not:
      (1) Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
      (2) Procure a commercial sex act during the period of time that the award is in effect; or
      (3) Use forced labor in the performance of the award or subawards under the

award.

b. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a Subrecipient that is a private entity:
   (1) Is determined to have violated a 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 a prohibition in paragraph a.1 of this award term through conduct that is either:
      i. Associated with performance under this award; or
      ii. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, ''OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement),''.

2. 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:
   a. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
   b. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—
      (1) Associated with performance under this award; or
      (2) 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),''

3. Provisions applicable to any recipient.
   a. 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.
   b. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
      (1) Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
      (2) Is in addition to all other remedies for noncompliance that are available to us under this award.
   c. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

4. Definitions. For purposes of this award term:
   a. ''Employee'' means either:
      (1) An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or

(2) 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.

b. ''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.

c. ''Private entity'':

(1) 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.

(2) Includes:

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

ii. A for-profit organization.

d. ''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).

U. DRUG-FREE WORKPLACE.

1. NH DNCR agree(s) that it will publish a drug-free workplace statement and provide a copy to each employee who will be engaged in the performance of any project/program that receives federal funding. The statement must

a. Tell the employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in its workplace;

b. Specify the actions NH DNCR will take against employees for violating that prohibition; and

c. Let each employee know that, as a condition of employment under any award, the employee:

(1) Shall abide by the terms of the statement, and

(2) Shall notify NH DNCR in writing if they are convicted for a violation of a criminal drug statute occurring in the workplace, and shall do so no more than 5 calendar days after the conviction.

2. NH DNCR agree(s) that it will establish an ongoing drug-free awareness program to inform employees about

a. The dangers of drug abuse in the workplace;

b. The established policy of maintaining a drug-free workplace;

c. Any available drug counseling, rehabilitation and employee assistance programs; and

d. The penalties that you may impose upon them for drug abuse violations occurring in the workplace.

3. Without the Program Manager's expressed written approval, the policy statement and program must be in place as soon as possible, no later than the 30 days after the effective date of this instrument, or the completion date of this award, whichever occurs first.

4. NH DNCR agrees to immediately notify the Program Manager if an employee is convicted of a drug violation in the workplace. The notification must be in writing, identify the employee's position title, the award number of each award on which the employee worked. The notification must be sent to the Program Manager within 10 calendar days after NH DNCR learns of the conviction.

5. Within 30 calendar days of learning about an employee's conviction, NH DNCR must either
   a. Take appropriate personnel action against the employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973 (29 USC 794), as amended, or
   b. Require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for these purposes by a Federal, State or local health, law enforcement, or other appropriate agency.

V. PROHIBITION AGAINST USING FUNDS WITH ENTITIES THAT REQUIRE CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS.

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

W. ELIGIBLE WORKERS. NH DNCR shall ensure that all employees complete the I-9 form to certify that they are eligible for lawful employment under the Immigration and Nationality Act (8 U.S.C. 1324(a)). NH DNCR shall comply with regulations regarding certification and retention of the completed forms. These requirements also apply to any contract or supplemental instruments awarded under this award.

X. FREEDOM OF INFORMATION ACT (FOIA). Public access to award or agreement records must not be limited, except when such records must be kept confidential and would have been exempted from disclosure pursuant to Freedom of Information regulations (5 U.S.C. 552).

Y. TEXT MESSAGING WHILE DRIVING. In accordance with Executive Order (EO) 13513, "Federal Leadership on Reducing Text Messaging While Driving," any and all text messaging by Federal employees is banned: a) while driving a Government owned vehicle (GOV) or driving a privately owned vehicle (POV) while on official Government business; or b) using any electronic equipment supplied by the Government when driving any vehicle at any time. All Cooperators, their Employees, Volunteers, and Contractors are encouraged to adopt and enforce policies that ban text messaging when driving company owned, leased or rented vehicles, POVs or GOVs when driving while on official Government business or when performing any work for or on behalf of the Government.

Z. PROMOTING FREE SPEECH AND RELIGIOUS FREEDOM. As a recipient of USDA financial assistance, you will comply with the following:

1. Do not discriminate against applicants for sub-grants on the basis of their religious character.
2. 7 Code of Federal Regulations (CFR) part 16.3(a), Rights of Religious Organizations.
3. Statutory and National policy requirements, including those prohibiting discrimination and those described in Executive Order 13798 promoting free speech and religious freedom, 2 CFR 200.300.

AA. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT. The cooperator (including subrecipients) is responsible for compliance with the prohibition on certain telecommunications and video surveillance services or equipment identified in 2 CFR 200.216. See Public Law 115-232, Section 889 for additional information.

In accordance with 2 CFR 200.216, the grantee (including subrecipients) is prohibited from obligating or expending loan or grant funds for covered telecommunications equipment or services to:

(1) procure or obtain, extend or renew a contract to procure or obtain;
(2) enter into a contract (or extend or renew a contract) to procure; or
(3) obtain the equipment, services or systems.

BB. DAVIS BACON WAGES FOR CONSTRUCTION. Following the requirement in Section 41101 of the Bipartisan Infrastructure Law, P.L. 117-58, Davis-Bacon wage rates must be applied for all laborers and mechanics employed by contractors or subcontractors in the performance of construction, alteration, or repair work on a project assisted in whole or in part by funding made available under this Act. Laborers and mechanics shall be paid wages at rates not less than those prevailing on similar projects in the locality, as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly referred to as the ''Davis-Bacon Act'').

# ATTACHMENT B: 2 CFR PART 170

## Appendix A to Part 170—Award Term

I. Reporting Subawards and Executive Compensation

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 equals or exceeds $30,000 in Federal funds for a subaward to a non-Federal entity or Federal agency (see definitions in paragraph e. of this award term).
   2. *Where and when to report.*
      i. The non-Federal entity or Federal agency must report each obligating action described in paragraph a.1. of this award term to *http://www.fsrs.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.fsrs.gov specify.*

b. *Reporting total compensation of recipient executives for non-Federal entities.*
   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 Federal award equals or exceeds $30,000 as defined in 2 CFR 170.320;
      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/execomp.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 *https://www.sam.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 non-Federal entity 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. Federal Agency means a Federal agency as defined at 5 U.S.C. 551(1) and further clarified by 5 U.S.C. 552(f).
   2. Non-Federal *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; and,
      iv. A domestic or foreign for-profit organization
   3. *Executive* means officers, managing partners, or any other employees in management positions.
   4. *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 2 CFR 200.331).
      iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

5. *Subrecipient* means a non-Federal entity or Federal agency 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.
6. *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)).

END OF ATTACHMENT B: 2 CFR PART 170

# ATTACHMENT C: WHISTLEBLOWER NOTICE

Whistleblowers perform an important service to USDA and the public when they come forward with what they reasonably believe to be evidence of wrongdoing. They should never be subject to reprisal for doing so. Federal law protects federal employees as well as personal services contractors and employees of Federal contractors, subcontractors, grantees, and subgrantees against reprisal for whistleblowing. USDA bears the responsibility to ensure that nothing in a non-disclosure agreement which a contractor, subcontractor, grantee, or subgrantee requires their employees to sign should be interpreted as limiting their ability to provide information to the Office of Inspector General (OIG).

41 U.S.C. § 4712 requires the head of each executive agency to ensure that its contractors inform their workers in writing of the rights and remedies under the statute. Accordingly, it is illegal for a personal services contractor or an employee of a Federal contractor, subcontractor, grantee, or subgrantee to be discharged, demoted, or otherwise discriminated against for making a protected whistleblower disclosure. In this context, these categories of individuals are whistleblowers who disclose information that the individual reasonably believes is evidence of one of the following:

- Gross mismanagement of a Federal contract or grant;
- A gross waste of Federal funds;
- An abuse of authority relating to a Federal contract or grant;
- A substantial and specific danger to public health or safety; or
- A violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or grant.

To be protected under 41 U.S.C. § 4712, the disclosure must be made to one of the following:

- A Member of Congress, or a representative of a committee of Congress;
- The OIG;
- The Government Accountability Office (GAO);
- A Federal employee responsible for contract or grant oversight or management at USDA;
- An otherwise authorized official at USDA or other law enforcement agency;
- A court or grand jury; or
- A management official or other employee of the contractor, subcontractor, or grantee who has the responsibility to investigate, discover, or address misconduct.

Under 41 U.S.C. § 4712, personal services contractors as well as employees of contractors, subcontractors, grantees, or subgrantees may file a complaint with OIG, who will investigate the matter unless they determine that the complaint is frivolous, fails to allege a violation of the prohibition against whistleblower reprisal, or has been addressed in another proceeding. OIG's investigation is then presented to the head of the executive agency who evaluates the facts of the investigation and can order the contractor, subcontractor, grantee, or subgrantee to take remedial action, such as reinstatement or back pay.

Federal Acquisition Regulation (FAR) Subpart 3.903, *Whistleblower Protections for Contractor Employees, Policy*, prohibits government contractors from retaliating against a contract worker for making a protected disclosure related to the contract. FAR Subpart 3.909-1 prohibits the Government from using funds for a contract with an entity that requires its employees or subcontractors to sign internal confidentiality statements prohibiting or restricting disclosures of fraud, waste, or abuse to designated persons. This prohibition does not contravene agreements pertaining to classified information. The regulation also requires contracting officers to insert FAR clause 52.203-17, *Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights,* in all solicitations and contracts that exceed the Simplified Acquisition Threshold as defined in FAR Subpart 3.908. This clause requires notification to contractor employees that they are subject to the whistleblower rights and remedies referenced in 41 U.S.C. § 4712.

In order to make a complaint alleging any of the violations mentioned above, one should complete the OIG Hotline form located at: https://www.usda.gov/oig/hotline. For additional information, they may also visit the WPC's webpage at: https://www.usda.gov/oig/wpc or they may directly contact the WPC at OIGWPC@oig.usda.gov.