



State of New Hampshire  
DEPARTMENT OF NATURAL & CULTURAL RESOURCES  
DIVISION OF FORESTS & LANDS

172 Pembroke Road Concord, New Hampshire 03301  
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May 20, 2025

The Honorable Ken Weyler, Chairman  
Fiscal Committee of the General Court and

Her Excellency, Governor Kelly A. Ayotte  
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 respectfully requests authorization to accept and expend a Federal Bipartisan Infrastructure Law (BIL) - State Forest Action Plan Implementation Grant Award #24-DG-11094200-183 in the amount of \$307,000 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, 2027. 100% Federal Funds.

Funds are to be budgeted in fiscal year 2025 as follows:

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

Class-Account- RG	Description	FY25 Current Adjusted Authorized	Requested Action	Revised FY25 Adjusted Authorized
000-404796-16	Federal Funds	\$2,514,721	\$113,590	\$2,628,311
<b>Total Revenue</b>		<b>\$2,514,721</b>	<b>\$113,590</b>	<b>\$2,628,311</b>
010-500100	Personal Services Perm Clas	\$181,136	\$0	\$181,136
018-500106	Overtime	\$22,000	\$0	\$22,000
020-500200	Current Expenses	\$134,083	\$39,068	\$173,151
022-500255	Rents-Leases Other Than State	\$1,560	\$0	\$1,560
023-500291	Heat Electricity Water	\$5,869	\$0	\$5,869
029-500290	Intra-Agency Transfers	\$65,188	\$0	\$65,188
030-500311	Equipment New Replacement	\$79,347	\$0	\$79,347
039-500190	Telecommunications	\$3,477	\$0	\$3,477
040-501587	Indirect Cost	\$39,761	\$3,594	\$43,355
041-500801	Audit Fund	\$2,625	\$113	\$2,738
042-500620	Additional Fringe Benefits	\$48,495	\$800	\$49,295
050-500109	Personal Service Temp Appoi	\$59,148	\$20,000	\$79,148
060-500602	Benefits	\$123,627	\$9,200	\$132,827
070-500705	In State Travel Reimbursement	\$43,557	\$5,000	\$48,557
072-500574	Grants Federal	\$1,587,659	\$0	\$1,587,659

080-500713	Out of State Travel Reimb	\$36,200	\$5,815	\$42,015
103-502507	Contracts for Op Services	\$79,272	\$30,000	\$109,272
211-501530	Property and Casualty Insurance	\$1,717	\$0	\$1,717
<b>Total Expenses</b>		<b>2,514,721</b>	<b>\$113,590</b>	<b>\$2,628,311</b>

Funds are to be budgeted in fiscal year 2025 as follows:

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

Class-Account- RG	Description	FY25 Current Adjusted Authorized	Requested Action	Revised FY25 Adjusted Authorized
000-404549-16	Federal Funds	\$886,795	\$18,420	\$905,215
<b>Total Revenue</b>		<b>\$886,795</b>	<b>\$18,420</b>	<b>\$905,215</b>
018-500106	Overtime	\$39,270	\$0	\$39,270
019-500105	Holiday	\$658	\$0	\$658
020-500200	Current Expenses	\$39,285	\$0	\$39,285
029-500290	Intra-Agency Transfers	\$84,815	\$0	\$84,815
030-500311	Equipment New Replacement	\$126,918	\$0	\$126,918
037-500173	Technology-Hardware	\$465	\$0	\$465
039-500190	Telecommunications	\$9,820	\$0	\$9,820
040-501587	Indirect Cost	\$99,671	\$2,632	\$102,303
041-500801	Audit Fund	\$1,078	\$18	\$1,096
042-500620	Additional Fringe Benefits	\$27,568	\$0	\$27,568
050-500109	Personal Service Temp Appoi	\$339,025	\$14,649	\$353,674
059-500117	Temp Full Time	\$6,052	\$0	\$6,052
060-500602	Benefits	\$86,375	\$1,121	\$87,496
070-500705	In State Travel Reimbursement	\$6,715	\$0	\$6,715
072-502643	Grants Federal	\$35	\$0	\$35
080-500713	Out of State Travel Reimb	\$17,045	\$0	\$17,045
103-502507	Contracts for Op Services	\$2,000	\$0	\$2,000
<b>Total Expenses</b>		<b>\$886,795</b>	<b>\$18,420</b>	<b>\$905,215</b>

Funds are to be budgeted in fiscal year 2025 as follows:

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

Class-Account- RG	Description	FY25 Current Adjusted Authorize	Requested Action	Revised FY25 Adjusted Authorized
000-404477-16	Federal Funds	\$664,376	\$61,400	\$725,776
<b>Total Revenue</b>		<b>\$664,376</b>	<b>\$61,400</b>	<b>\$725,776</b>
010-500100	Personal Services Perm Clas	\$139,630	\$0	\$139,630
018-500106	Overtime	\$15,583	\$0	\$15,583
020-500200	Current Expenses	\$52,750	\$10,338	\$63,088
023-500291	Heat Electricity Water	\$10,868	\$0	\$10,868
027-582703	Transfers to DoIT	\$3,139	\$0	\$3,139
029-500290	Intra-Agency Transfers	\$29,158	\$0	\$29,158
039-500190	Telecommunications	\$12,273	\$0	\$12,273
040-501587	Indirect Cost	\$45,713	\$0	\$45,713
041-500801	Audit Fund	\$832	\$62	\$894
042-500620	Additional Fringe Benefits	\$30,566	\$0	\$30,566
050-500109	Personal Service Temp Appoi	\$62,692	\$0	\$62,692
060-500602	Benefits	\$82,706	\$0	\$82,706
066-500543	Employee Training	\$4,735	\$0	\$4,735
070-500705	In State Travel Reimbursement	\$13,949	\$1,000	\$14,949
072-500574	Grants Federal	\$126,749	\$0	\$126,749
080-500710	Out of State Travel Reimb	\$5,934	\$0	\$5,934
103-502664	Contracts for Operational Services	\$21,600	\$50,000	\$71,600
211-501530	Property and Casualty Insurance	\$5,499	\$0	\$5,499
<b>Total Expenses</b>		<b>\$664,376</b>	<b>\$61,400</b>	<b>\$725,776</b>

Funds are to be budgeted in fiscal year 2025 as follows:

03-035-035-351010-36710000, UNH Federal Funds

Class-Account- RG	Description	FY25 Current Adjusted Authorize	Requested Action	Revised FY25 Adjusted Authorized
000-400338-16	Federal Funds	\$413,501	\$113,590	\$527,091
<b>Total Revenue</b>		<b>\$413,501</b>	<b>\$113,590</b>	<b>\$527,091</b>
041-500801	Audit Fund	\$407	\$114	\$521
072-502643	Grants Federal	\$413,094	\$113,476	\$526,570
<b>Total Expenses</b>		<b>\$413,501</b>	<b>\$113,590</b>	<b>\$527,091</b>

## 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 areas – 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.

**Forest Health-Federal** BIL-SFAP grant will provide funding to implement projects designed to fulfill the strategies of the Forest Health Bureau. Funds will be used to upgrade the Forest Health insect rearing space and storage room. Staff will implement low density silviculture projects on state and private lands that demonstrate the importance of pre-commercial intervention to improve the health of white pine, fir and hemlock. Develop a tree improvement project that collects and grows hybrid resistant butternut found in New Hampshire and produce hybrid butternut seedlings. Develop and implement a hemlock treatment plan for state parks and state forests infested with HWA. Grant will also provide the continued treatment of the infestation of the Emerald Ash Borer and collecting wild populations of *Laricobius nigrinus* - the biocontrol for hemlock woolly adelgid, for distribution at infested stands in NH.

**State Fire Assistance** BIL – SFAP grant 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 the objective of keeping the number of wildfires and acreage burned to a minimum.

Grant Funds will be used to fund, support and expand the overall operations of the divisions' wildland fire management program. Projects funded through this grant will hopefully result in the reduced number of wildfire ignitions, reduce acreage burned, increased safety of firefighters, increase protection to communities and increased prescribed fire activity. This will be accomplished through partial funding to act as the Prescribed Fire Coordinator. The purpose of this position will be to advance, increase the Prescribed Fire Program in the capacity through the development of burn plans, training and execution of prescribed fires on state reservations and partner agencies within the NH Prescribed Fire Council. The state will also implement the tenants of regional and national cohesive wildland strategies.

**Urban Forestry Assistance** Our goal is to engage citizens and resource professionals to protect and promote community trees. Grant funds will be used to continue working from the previous BIL funding focus areas. Focus areas include; 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.

We plan to contract with a nonprofit organization to assist with hosting community-based engagement workshops and the regional conference for municipalities, community leaders, and volunteers responsible for tree care and maintenance. The remaining funds will be used to host hands-on trainings to encourage the protection of natural resources, showcase the importance of community trees and inspire citizens to join or develop tree committees.

**UNH Forest Stewardship** BIL-SFAP grant funds a modified Kubota mini-excavator that has been purchased for the use of training and recruiting forest industry labor in New Hampshire. Funds will be used to purchase a modified hot-saw harvesting head, a grapple, a York rake, and forestry mulching attachment. The UNH extension staff will incorporate the mini- harvester into an existing programs for private forest landowners, Women-in-the-Woods training and wildfire fuel reduction.

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

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

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 042 - Additional Fringe Benefits to fund post-retirement costs for current positions.

Class 050 Personal Service Temp — Appropriation needed to pay for existing staff.

Class 060 Benefits Appropriation needed to pay additional payroll benefits.

Class 070 – In State Travel for current positions in the execution of the grant award.

Class 080 — Out of State Travel - Appropriation needed to pay additional expenses related to travel.

Class 103 – Contracts for Operational Services to host community-based engagement workshops.

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

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 current part-time positions.

Class 060 - Benefits — Appropriation needed to pay associated fringe benefits on the part-time position.

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

Class 020 — Current Expenses - Appropriation needed to pay for supplies and equipment.

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 travel.

Class 103 — Contracts for Operational Services to host community-based engagement workshops.

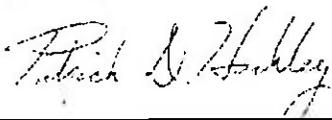
**The following appropriation authorities are being requested for AU 36710000:**

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 services.

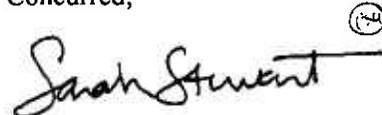
In the event Federal Funds are no longer available, General Funds will not be requested to support this request.

Respectfully submitted,



Patrick D. Hackley  
Director

Concurred,



Sarah L. Stewart  
Commissioner

**FEDERAL FINANCIAL ASSISTANCE  
AWARD OF DOMESTIC GRANT 24-DG-11094200-183  
Between The  
STATE OF NEW HAMPSHIRE- DEPARTMENT OF NATURAL  
AND CULTURAL RESOURCES  
And The  
USDA, FOREST SERVICE  
EASTERN REGION, STATE, PRIVATE AND TRIBAL FORESTRY**

Project Title: INFRASTRUCTURE NEW HAMPSHIRE STATE FOREST ACTION PLAN  
Upon execution of this document, an award to the STATE OF NEW HAMPSHIRE-  
DEPARTMENT OF NATURAL AND CULTURAL RESOURCES, hereinafter referred to  
as "the Recipient," in the amount of **\$307,000.00**, 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 Assistance. The Recipient accepts this  
award for the purpose described in the application narrative. Your application for Federal  
financial assistance, dated 05/28/2024, 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 of 1:1, however a match waiver has been approved and is on  
file for this award.

All required reports and official correspondence must be sent to  
[SM.FS.R9SPFgrants@usda.gov](mailto:SM.FS.R9SPFgrants@usda.gov) and the assigned U.S. Forest Service Program Manager for  
internal record-keeping and processing.

**Please Note:**

**Justice 40 Initiative.** Executive Order (EO) 14008, Tackling the Climate Crisis at Home and  
Abroad, was signed on January 27, 2021. This EO commits federal agencies to providing  
40% of federal benefits to disadvantaged communities. When the cooperator is considering a  
sub-award or contract to be executed under this agreement, the cooperator shall consider the  
requirements of EO 14008, section 223, OMB M-21-28 and OMB-23-09.

**Investing in America Signage.** For any Bipartisan Infrastructure Law or Inflation Reduction  
Act funded public construction projects over \$250,000, the Cooperator shall visibly post  
clear and prominent signs acknowledging the source of funding. See Office of Management  
and Budget Memorandum CA-23-6.

For any construction project less than \$250,000 or a non-construction project, the  
Cooperator is encouraged to display a poster or utilize other appropriate Investing in  
America media. Specific sign and poster design criteria may be found in the USDA Style  
Guide. Production costs of Investing in America signs shall be reasonable. To maintain  
reasonable costs, the Cooperator is encouraged to use recycled or recovered materials when  
producing signs. In the event production of such signs and/or posters will result in  
unreasonable costs, expenses or burden to the Cooperator, production will not be required,  
and the Forest Service should be notified.



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.ccfr.gov](http://www.ccfr.gov). If you are unable to retrieve these regulations electronically, please contact your Grants and Agreements Office at [SM.FS.R9SPFgrants@usda.gov](mailto:SM.FS.R9SPFgrants@usda.gov).

The following administrative provisions apply to this award:

- A. **LEGAL AUTHORITY.** The Recipient 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:**

<p align="center"><b>Cooperative State Fire Assistance</b></p> <p>Name: Steven Sherman          Address: 172 Pembroke Rd          City, State, Zip: Concord, NH 03301          Telephone: 603-271-2214          Email: <a href="mailto:steven.l.sherman@dncr.nh.gov">steven.l.sherman@dncr.nh.gov</a></p>	<p align="center"><b>Cooperator Administrative Contact</b></p> <p>Name: Leslie Sherman          Address: 172 Pembroke Rd          City, State, Zip: Concord, NH 03301          Telephone: 603-271-2214          Email: <a href="mailto:leslie.a.sherman@dncr.nh.gov">leslie.a.sherman@dncr.nh.gov</a></p>
<p align="center"><b>Cooperative Forest Health</b></p> <p>Name: Kyle Lombard          Address: 172 Pembroke Rd          City, State, Zip: Concord, NH 03301          Telephone: 603-464-3016          Email: <a href="mailto:kyle.lombard@dncr.nh.gov">kyle.lombard@dncr.nh.gov</a></p>	<p align="center"><b>Forest Stewardship Cooperator</b></p> <p>Name: Steven S. Roberge, UNH Coop Ext          Address: 131 Main Street          City, State, Zip: Durham, NH 03824          Telephone: 603-674-7095          Email: <a href="mailto:steven.roberge@unh.edu">steven.roberge@unh.edu</a></p>
<p align="center"><b>Urban and Community Forestry</b></p> <p>Name: Liz McKinley          Address: 172 Pembroke Road          City, State, Zip: Concord, NH 03301          Telephone: 603-271-2901          Email: <a href="mailto:elizabeth.c.mckinley@dncr.nh.gov">elizabeth.c.mckinley@dncr.nh.gov</a></p>	



**Principal Forest Service Contacts:**

<b>Forest Service Program Manager Contact</b>	<b>Forest Service Administrative Contact</b>
Name: Angelica Quintana	Name: Tressee Koloski
Address: 271 Mast Rd	Address: 626 East Wisconsin Ave
City, State, Zip: Durham, NH 03824	City, State, Zip: Milwaukee, WI 53202
Telephone: 802-417-4996	Telephone: 304-322-5769
Email: <a href="mailto:angelica.quintana@usda.gov">angelica.quintana@usda.gov</a>	Email: <a href="mailto:tressee.koloski@usda.gov">tressee.koloski@usda.gov</a>

C. **SYSTEM FOR AWARD MANAGEMENT REGISTRATION REQUIREMENT (SAM)**. The Recipient shall maintain current organizational information and the original Unique Entity Identifier (UEI) provided for this agreement in the System for Award Management (SAM) until receipt of final payment. This requires annual review and updates, when needed, of organizational information after the initial registration. More frequent review and updates may be required for changes in organizational information or agreement term(s). Any change to the original UEI provided in this agreement will result in termination of this agreement and de-obligation of any remaining funds. For purposes of this agreement, System for Award Management (SAM) means the Federal repository into which an entity must provide information required for the conduct of business as a Cooperative. Additional information about registration procedures may be found at the SAM Internet site at [www.sam.gov](http://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 (24-DG-11094200-183) in Block 4. A final SF-270 must have a final performance report submitted prior to its approval.

<p>The invoice must be sent by one of three methods:</p> <p>EMAIL (preferred): <a href="mailto:SM.FS.asc_ga@usda.gov">SM.FS.asc_ga@usda.gov</a></p> <p>FAX: 877-687-4894</p> <p>POSTAL: USDA Forester Service Budget &amp; Finance - Grants and Agreements 4000 Masthead St, NE Albuquerque, NM 87109</p>	<p>Send a copy to:</p> <p><a href="mailto:angelica.quintana@usda.gov">angelica.quintana@usda.gov</a></p>
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- E. **INDIRECT COST RATES.** The approved indirect cost rate at the time of execution is **17.97%** as shown in the NICRA provided by the Cooperator.

As new NICRAs are agreed to between The Recipient 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, The Recipient 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.** The Recipient 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.

The end date, or expiration date is **07/31/2029**. 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.

**Sarah L.  
Stewart**

Digitally signed by: Sarah L. Stewart  
DN: CN = Sarah L. Stewart email = sarah.l.  
stewart@dnr.nh.gov C = US O = SoM  
Department of Natural and Cultural  
Resources OU = Office of the Commissioner  
Date: 2024.08.23 11:49:10 -0400'

8/23/24

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Sarah Stewart  
Commissioner  
Department of Natural and Cultural Resources

Date

**ROBERT  
LUECKEL**

Digitally signed by  
ROBERT LUECKEL  
Date: 2024.08.26  
15:23:54 -05'00'

8/26/24

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ROBERT LUECKEL  
Deputy Regional Forester  
Eastern Region, State, Private, and Tribal Forestry

Date

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

**TRESSEE  
KOLOSKI**

Digitally signed by  
TRESSEE KOLOSKI  
Date: 2024.08.05  
15:21:53 -04'00'

8/5/24

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TRESSEE A. KOLOSKI  
Grants Management Specialist  
Eastern Region, State, Private, and Tribal Forestry

Date

## ATTACHMENT A: FOREST SERVICE AWARD PROVISIONS

- A. **COLLABORATIVE ARRANGEMENTS**. Where permitted by terms of the award and Federal law, The Recipient 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 The Recipient 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 The Recipient or any third party.
- C. **NOTICES**. Any notice given by the Forest Service or the Recipient 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 the Recipient, 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 [fsrc.gov](https://fsrc.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<sup>st</sup>, June 30<sup>th</sup>, September 30<sup>th</sup>, and December 31<sup>st</sup>. 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 [grants.gov/forms/forms-repository/post-award-reporting-forms](https://grants.gov/forms/forms-repository/post-award-reporting-forms)

- 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.

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

- Additional pertinent information:

- o To prevent payment delays, all reports should be emailed to [SM.FS.R9SPFgrants@usda.gov](mailto: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 (24-DG-11094200-183) and the name of report being submitted.
- o The final performance report must be submitted and approved prior to approval of the final SF-270 payment request.

- G. **NOTIFICATION.** The Recipient 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 The Recipient 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 The Recipient when permission is granted.

- J. **FUNDING EQUIPMENT.** Federal funding under this award is not available for reimbursement of the Recipient'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. The Recipient is encouraged to give public notice of the receipt of this award and, from time to time, to announce progress and accomplishments.

The Recipient may call on Forest Service's Office of Communication for advice regarding public notices. The Recipient 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.** The Recipient 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.** The Recipient 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 the Recipient under this award.
- Any right of copyright to which the Recipient purchase(s) ownership with any federal contributions.

- N. **NONDISCRIMINATION STATEMENT – PRINTED, ELECTRONIC, OR AUDIOVISUAL MATERIAL.** The Recipient 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](mailto: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.** In the event of any issue of controversy under this agreement, the parties may pursue Alternate Dispute Resolution (ADR) procedures to voluntarily resolve those issues. These procedures may include, but are not limited to conciliation, facilitation, mediation, and fact finding.

Should the parties be unable to resolve the issue of controversy through ADR, then the Signatory Official will make the decision. A written copy of the decision will be provided to the Cooperator.

Decisions of the Signatory Official shall be final unless, within 30 days of receipt of the decision of the Signatory Official, the Cooperator appeals the decision to the Forest Service's Deputy Chief, State, Private, and Tribal Forestry (SPTF). Any appeal made under this provision shall be in writing and addressed to the Deputy Chief, SPTF, USDA, Forest Service, Washington, DC 20024. A copy of the appeal shall be concurrently furnished to the Signatory Official.

A decision under this provision by the Deputy Chief, SPTF, is final. The final decision by the Deputy Chief, SPTF, does not preclude the Cooperator from pursuing remedies available under the law.

- P. **AWARD CLOSEOUT.** The Recipient 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 The Recipient 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.** The Recipient 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 the Recipient 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. **SCIENTIFIC INTEGRITY:** USDA is committed to the highest levels of integrity in all of our scientific activities and decision making. This includes to performing, recording and reporting the results of scientific activities with honesty, objectivity, and transparency. All persons performing under this agreement shall adhere to the principles of scientific integrity described in [Departmental Regulation \(DR\) 1074-001](#).
- U. **GEOSPATIAL DATA.** All data collected will meet the requirements of the Geospatial Data Act of 2018 where applicable. This will always include the documentation of all relevant metadata standards, use of standard data formats; description of quantitative measures of uncertainty and source of uncertainty and sources of uncertainty associated with the data. Additionally, the data must meet specific standards specified elsewhere to ensure the data is useful to support the USDA's mission. The recipient/cooperator agrees

to comply with USDA's Department-wide enterprise geospatial data management policy implemented in [Departmental Regulation 3465-001](#) which establishes the USDA policy for defining the strategic direction necessary to optimize the management of the USDA geospatial data and geospatial infrastructure, including all geospatial data created for, by, and enhanced by USDA.

V. **PUBLIC ACCESS TO SCHOLARLY PUBLICATIONS AND DIGITAL SCIENTIFIC RESEARCH DATA.**

The recipient agrees to comply with USDA's Department-wide public access policy implemented in [Departmental Regulation 1020-006](#) which establishes the USDA policy for public access to scholarly publications and digital scientific research data assets. The USDA will make all peer-reviewed, scholarly publications and digital scientific research data assets arising from unclassified scientific research supported wholly or in part by the USDA accessible to the public, to the extent practicable.

W. **BUY AMERICA BUILD AMERICA.** Recipients of an award of Federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for an infrastructure project unless:

(1) All iron and steel used in the project are produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;

(2) All manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard that meets or exceeds this standard has been established under applicable law or regulation for determining the minimum amount of domestic content of the manufactured product; and

(3) All construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States. The construction material standards are listed below.

*Incorporation into an infrastructure project.* The Buy America Preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America Preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project, but are not an integral part of the structure or permanently affixed to the infrastructure project.

**Categorization of articles, materials, and supplies.** An article, material, or supply should only be classified into one of the following categories: (i) Iron or steel products; (ii) Manufactured products; (iii) Construction materials; or (iv) Section 70917(c) materials. An article, material, or supply should not be considered to fall into multiple categories. In some cases, an article, material, or supply may not fall under any of the categories listed in this paragraph. The classification of an article, material, or supply as falling into one of the categories listed in this paragraph must be made based on its status at the time it is brought to the work site for incorporation into an infrastructure project. In general, the work site is the location of the infrastructure project at which the iron, steel, manufactured products, and construction materials will be incorporated.

**Application of the Buy America Preference by category.** An article, material, or supply incorporated into an infrastructure project must meet the Buy America Preference for only the single category in which it is classified.

**Determining the cost of components for manufactured products.** In determining whether the cost of components for manufactured products is greater than 55 percent of the total cost of all components, use the following instructions:

- (a) For components purchased by the manufacturer, the acquisition cost, including transportation costs to the place of incorporation into the manufactured product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
- (b) For components manufactured by the manufacturer, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (a), plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the manufactured product.

**Construction material standards.** The Buy America Preference applies to the following construction materials incorporated into infrastructure projects. Each construction material is followed by a standard for the material to be considered "produced in the United States." Except as specifically provided, only a single standard should be applied to a single construction material.

- (1) Non-ferrous metals. All manufacturing processes, from initial smelting or melting through final shaping, coating, and assembly, occurred in the United States.
- (2) Plastic and polymer-based products. All manufacturing processes, from initial combination of constituent plastic or polymer-based inputs, or, where applicable, constituent composite materials, until the item is in its final form, occurred in the United States.

(3) Glass. All manufacturing processes, from initial batching and melting of raw materials through annealing, cooling, and cutting, occurred in the United States.

(4) Fiber optic cable (including drop cable). All manufacturing processes, from the initial ribboning (if applicable), through buffering, fiber stranding and jacketing, occurred in the United States. All manufacturing processes also include the standards for glass and optical fiber, but not for non-ferrous metals, plastic and polymer-based products, or any others.

(5) Optical fiber. All manufacturing processes, from the initial preform fabrication stage through the completion of the draw, occurred in the United States.

(6) Lumber. All manufacturing processes, from initial debarking through treatment and planing, occurred in the United States.

(7) Drywall. All manufacturing processes, from initial blending of mined or synthetic gypsum plaster and additives through cutting and drying of sandwiched panels, occurred in the United States.

(8) Engineered wood. All manufacturing processes from the initial combination of constituent materials until the wood product is in its final form, occurred in the United States.

*Waivers.* When necessary, recipients may apply for, and the agency may grant, a waiver from these requirements. The agency should notify the recipient for information on the process for requesting a waiver from these requirements.

When the Federal agency has made a determination that one of the following exceptions applies, the awarding official may waive the application of the Buy America Preference in any case in which the agency determines that:

- (1) applying the Buy America Preference would be inconsistent with the public interest;
- (2) the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
- (3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

A request to waive the application of the Buy America Preference must be in writing. The agency will provide instructions on the format, contents, and supporting materials

required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Made in America Office.

There may be instances where an award qualifies, in whole or in part, for an existing waiver described at [USDA Buy America Waivers for Federal Financial Assistance | USDA](#).

### Definitions

**“Buy America Preference”** means the “domestic content procurement preference” set forth in section 70914 of the Build America, Buy America Act, which requires the head of each Federal agency to ensure that none of the funds made available for a Federal award for an infrastructure project may be obligated unless all of the iron, steel, manufactured products, and construction materials incorporated into the project are produced in the United States.

**“Construction materials”** means articles, materials, or supplies that consist of only one of the items listed in paragraph (1) of this definition, except as provided in paragraph (2) of this definition. To the extent one of the items listed in paragraph (1) contains as inputs other items listed in paragraph (1), it is nonetheless a construction material.

(1) The listed items are:

- (i) Non-ferrous metals;
- (ii) Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- (iii) Glass (including optic glass);
- (iv) Fiber optic cable (including drop cable);
- (v) Optical fiber;
- (vi) Lumber;
- (vii) Engineered wood; and
- (viii) Drywall.

(2) Minor additions of articles, materials, supplies, or binding agents to a construction material do not change the categorization of the construction material.

**“Infrastructure”** means public infrastructure projects in the United States, which includes, at a minimum, the structures, facilities, and equipment for roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property; and structures, facilities, and equipment that generate, transport, and distribute energy including electric vehicle (EV) charging.

**“Infrastructure project”** means any activity related to the construction, alteration, maintenance, or repair of infrastructure in the United States regardless of whether infrastructure is the primary purpose of the project. See also paragraphs (c) and (d) of 2 CFR 184.4.

**“Iron or steel products”** means articles, materials, or supplies that consist wholly or predominantly of iron or steel or a combination of both.

X. 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).

Y. DRUG-FREE WORKPLACE.

1. The Recipient 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 the Recipient 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 The Recipient 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. The Recipient 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. The Recipient 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 The Recipient learns of the conviction.
5. Within 30 calendar days of learning about an employee's conviction, the Recipient 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.

**Z. 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.

**AA. ELIGIBLE WORKERS.** The Recipient 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)). The Recipient 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.

**BB. 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). Requests for research data are subject to 2 CFR 315(c).

Public access to culturally sensitive data and information of Federally-recognized Tribes may also be explicitly limited by P.L. 110-234, Title VIII Subtitle B §8106 (2009 Farm Bill).

**CC. 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.

**DD. 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.

**EE. 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.

**FF. 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 c. 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/excomp.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.
- c. *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](mailto:OIGWPC@oig.usda.gov).