



Food and
Nutrition
Service

DATE: September 20, 2022

MEMO CODE: SP 17-2022

Braddock
Metro Center

SUBJECT: Supply Chain Resiliency

1320
Braddock
Place
Alexandria
VA 22314

TO: State Directors
Child Nutrition Programs
All State Agencies

CC: Regional Directors
Special Nutrition Programs
All Regional Offices

Regional Directors
Grants Management Administrative Services
All Regional Offices

Issuing Agency/Office:	FNS/Child Nutrition Programs
Title of Document:	Farm to School State Agency Formula Grant
Document ID:	
Z-RIN:	
Date of Issuance:	09/20/2022
Replaces:	N/A
Summary:	(1) This memorandum provides implementing guidance pursuant to the statutory requirements outlined in Section 1001 of the American Rescue Plan Act (ARPA, P.L. 117-2) (2) This memorandum provides instructions and administrative procedures for participating in the Farm to School State Agency Formula Grant
Disclaimer:	

General

Pursuant to Section 1001 of the American Rescue Plan Act (P.L. 117-2), the Food and Nutrition Service (FNS) will provide \$60 million in American Rescue Plan Act (ARPA) funds to the 54 State agencies¹ administering the National School Lunch Program (NSLP) to improve food and agricultural supply chain resiliency (supply chain resiliency). The funds will support State agency efforts to coordinate and provide technical assistance to build and increase the capacity of participating institutions to procure and use local foods in program meals as well as provide agricultural education opportunities for participating children.

¹ Four territories operate the NSLP including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands and are included as State agencies in the Farm to School State Agency Formula Grant.

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The importance of the Farm to School infrastructure to supply chain resiliency became evident during the supply chain disruptions related to the COVID-19 pandemic. School food authorities and State agencies with strong Farm to School practices already in place were better able to adapt to the disruptions. Providing the Farm to School State Formula Grants to all State agencies prioritizes improvement of supply chain resiliency as a whole across State agencies. The agricultural education opportunities for participating children also contribute to agricultural supply chain resiliency because such opportunities build a stronger consumer base and demand for agricultural products as well as increase interest in supporting or even becoming an agricultural producer in the future.

Purpose and Scope

The non-competitive Farm to School State Formula Grant will provide \$60 million in grant funding in Fiscal Year (FY) 2022. The formula provides each NSLP State agency a minimum grant of \$600,000 and distributes the remaining funds according to each State's share of total NSLP enrollment, resulting in an average amount of \$1,111,111 per State. The amount of funds allocated to each State agency was determined by FNS based on NSLP enrollment data from October 2019. This time period provides a more accurate depiction of typical enrollment than recent school years which were severely impacted by the COVID-19 public health emergency. State allocation levels are shown in the table on page six. The period of performance for each grant is four years (September 30, 2022, through September 30, 2026).

Funds Distribution

To receive these funds, States will be required to submit a SF-424 Grants Application Package, a signed FNS-529, and a detailed budget to FNS demonstrating that they will use the funds for their targeted purposes to strengthen and expand farm to school implementation. A suggested budget template is provided as Attachment 2.

Only those costs that are necessary, reasonable, and allocable under Child Nutrition Program (CNP) rules and meet the specific farm to school objectives will be allowed. The specific objectives of this funding are: 1) to build and increase the capacity of participating institutions to procure and use local food in program meals; and 2) to provide agricultural education opportunities for participating children. Activities conducted by States to support farm to school may include but are not limited to:

- Local food procurement capacity building and coordination (such as value chain coordination, grower/buyer matching tools, etc.);
- Training and technical assistance for local producers and program operators;
- Local food promotional and educational activities for participating institutions and children (such as Harvest of the Month promotions or “crunches”); and
- Outreach to local producers or participating institutions not engaged in farm to school.

States may directly fund State level farm to school staff and projects and may choose to provide funds to partner organizations to conduct allowable activities, or to participating institutions, through contracts, subrecipients, or incentive payments.

How to Apply

To apply for a Farm to School State Formula Grant, State agencies must submit a SF-424 Grants Application Package, as well as a signed FNS-529, Grant Award Agreement **to their respective FNS Regional Office at the points of contact** listed below. The application packages and signed SF-529s must be received **no later than 11:59 PM Eastern Time on September 23, 2022**.

State agencies may reach out to their respective FNS Regional Office with questions or technical assistance requests when preparing the submission. The SF-424 Grants Application Package is accessible via links below to the standard forms. The FNS-529, Grant Award Agreement with accompanying terms and conditions are attached (Attachment 1). While the SF-424 Grants Application Package and FNS-529 (Grant Award Agreement) must be submitted no later than September 23, 2022, FNS will not make funds available for States to draw upon until the budget information has been returned and approved.

Please note, the SF-424(a), Budget Summary document of the SF-424 package is not required, as FNS is seeking budget information via a separate budget template, also provided as an attachment (Attachment 2). Use of the FNS Budget Template is optional, however, the information contained within the template must be provided to FNS for consideration no later than October 31, 2022.

FNS Regional Office	Point of Contact (email)
Mid-Atlantic Regional Office	Howard.Lockstein@usda.gov
Midwest Regional Office	Mike.Chambers@usda.gov
Mountain Plains Regional Office	Cynthia.Archuleta@usda.gov
Northeast Regional Office	Li.Liu@usda.gov
Southeast Regional Office	Izra.Brown@usda.gov
Southwest Regional Office	Jeff.Wingate@usda.gov
Western Regional Office	Rebecca.Hobbs@usda.gov

A complete application (due September 23, 2022) will include:

- SF-424 Grants Application Package (hyperlinks provided)
 - [SF-424](#) Application for Federal Assistance
 - [SF-424B](#) Assurances for Non-Construction Programs
 - [SF-LLL](#) Disclosure of Lobbying Activities
- Signed SF-529 (Attachment 1)
 - **Note:** State agencies should enter their grant amount (found on page six of this memo) to blocks 11, 12, and 13 of the SF-529.

While efforts will be made, FNS cannot guarantee that awards will be funded if the signed FNS-529, Grant Award Agreement, is returned by the State agency later than September 23, 2022. A fully executed FNS-529 Grant Award Agreement, with terms and conditions, will serve as the official grant agreement and be returned to the State once fully executed. The Catalog of Federal Domestic Assistance (CFDA) number for this grant project award is 10.645.

Reporting, and Recordkeeping Accountability, Oversight,

State agencies will be required to submit quarterly SF-425, Financial Status Report entitled, *PAN-CN-ARPA-F2S-FG-CN F2S State Agency Grants* in FNS' Food Program Reporting System. Additionally, States will submit an annual FNS- 908, Performance Progress Report, using the narrative portion of the form. The FNS-908 should be submitted via email to the FNS Regional Office in PDF format. Specific reporting requirements, to include program office contacts for the FNS-908 Performance Progress Report, will be outlined in the terms and conditions of the FNS-529 award package. This includes the expectations for the narrative progress report on State performance to show achievement of grant goals and objectives as required by 2 CFR 200.301 and 200.329.

FNS Regional Offices will review each State agency's quarterly FNS-425 and annual FNS-908 Performance Progress Report. In addition, FNS may conduct onsite Management Evaluations (MEs) and/or Financial Management Reviews (FMRs). FNS may initiate and pursue claims against the State agency or other entities for improper use of funds provided under the Farm to School State Formula Grant.

The Farm to School State Formula Grant funds will be subject to all single audit requirements in accordance with 2 CFR 200.501 Subpart F to the extent that they apply to the entity that receives funding. Any Non-Federal entity receiving Federal awards as a subrecipient or a contractor, depending on the substance of its agreements with Federal awarding agencies and pass-through entities, will be subjected to the audit requirements stipulated by 2 CFR 200.331.

Reallocation of Funds

In the event that State Formula Grant funds are not accepted by State agencies, FNS will recover the funds. FNS may reallocate recovered funds via the formula distribution.

Further details on the funding formula, operational requirements, and reallocation are found in the Questions and Answers (Attachment 3) included with this memorandum.

The following table provides important dates of these grants:

Important Dates and Deadlines:

September 23, 2022	Date by which State agencies return their SF-424 Grants Application Package and signed FNS-529 Grant Award Agreement.
September 2026	The period of performance for each grant will run from September 30, 2022, to September 30, 2026. This means that State agencies must obligate funds no later than September 30, 2026. Each State agency will have until January 31, 2027, to close-out funding.

State agencies with questions regarding this memorandum should contact their respective FNS Regional Office contacts listed in the table above.

**JULIE
BREWER**

Julie Brewer
Director
Community Food Systems Division
Child Nutrition Programs

Digitally signed by
JULIE BREWER
Date: 2022.09.20
13:08:34 -04'00'

Attachments:

- 1) *FNS-529, Grant Award Agreement with Terms and Conditions*
- 2) *Budget Template*
- 3) *Question and Answer Document*

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Guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract. USDA may not cite, use, or rely on any guidance that is not available through their guidance portal, except to establish historical facts.

FUNDING ALLOCATION BY STATE

State	<i>State Allocation Amount</i>
Alabama	\$998,310
Alaska	\$659,589
Arizona	\$1,176,026
Arkansas ¹	\$850,011
California	\$3,906,412
Colorado	\$1,049,935
Connecticut	\$863,466
Delaware	\$679,103
District of Columbia	\$649,244
Florida	\$2,147,080
Georgia	\$1,535,397
Guam	\$616,474
Hawaii	\$696,317
Idaho	\$761,595
Illinois	\$1,534,244
Indiana	\$1,197,948
Iowa	\$892,116
Kansas	\$874,528
Kentucky	\$997,213
Louisiana	\$1,010,250
Maine	\$698,955
Maryland	\$1,114,114
Massachusetts	\$1,113,251
Michigan	\$1,395,832
Minnesota	\$1,081,005
Mississippi	\$857,279
Missouri	\$1,099,405
Montana	\$682,693
Nebraska	\$787,691
Nevada	\$850,015
New Hampshire	\$689,627
New Jersey	\$1,282,386
New Mexico	\$769,829

¹ In Arkansas, a separate State agency (AR DHS) administers NSLP/SBP in private schools. This agency will receive the following sum, deducted from the total listed for Arkansas in the table: \$7,192.

State	<i>State Allocation Amount</i>
New York	\$2,124,235
North Carolina	\$1,409,256
North Dakota	\$669,834
Ohio	\$1,556,301
Oklahoma ²	\$964,406
Oregon	\$914,738
Pennsylvania	\$1,526,960
Puerto Rico	\$778,784
Rhode Island	\$681,901
South Carolina	\$1,027,899
South Dakota	\$679,980
Tennessee	\$1,133,648
Texas	\$3,472,451
Utah	\$955,364
Vermont	\$645,207
Virginia	\$1,291,069
Virgin Islands	\$607,037
Washington	\$1,190,864
West Virginia	\$743,436
Wisconsin	\$1,457,968
Wyoming	\$651,322
Total	\$60,000,000

² In Oklahoma, a separate State agency administers NSLP/SBP in private schools. This agency (OK DHS) will receive the following sum, deducted from the total listed for Oklahoma in the table: \$5,635.

Attachment 3:

Farm to School State Formula Grant

Questions and Answers

General

1. Can food be purchased with these funds?

Farm to School State Formula Grant funds may not be used to purchase food for consumption in school meal programs. Grant funds may not be used to purchase meals or snacks for training or meeting attendees. Per diem payments for meals while in travel status is allowable.

Funds are intended for technical assistance and the promotion of agricultural education. No more than 10 percent of the grant funds may be used for food purchases, and the use must be clearly delineated in the grant budget. Food purchases should be limited to educational purposes only, such as: farm to school sample tables, taste tests, or promotional use. Food costs related to conducting a test offering of a new local or regional product are also deemed an appropriate use of funds. Any food purchase, as well as any expenditures associated with food purchases, must be clearly identified within the submitted budget narrative.

2. Can funding be used for training/conferences/to build networks or coalitions? Can State agencies use funds for planning, implementation, and evaluation?

Yes, as long as the activities support one or both of the specific objectives of this funding: 1) to build and increase the capacity of participating institutions to procure and use local food in program meals; and 2) to provide agricultural education opportunities for participating children.

3. Are food production activities a permissible use of these funds?

No. Funds are intended to support State activities that increase the capacity for procurement and use of local food in program meals and provide agricultural education opportunities for participating children. Funds may not be used to directly support food production or processing enterprises. States may use the funds to provide training to food producers interested in farm to school, or to participating institutions interested in developing food production (e.g. edible school gardens or farms) projects.

4. Are subgrants allowed for local funding with partner agencies or nonprofits?

National School Lunch Program State agencies are the primary grantees. However, State agencies may provide funds to partner organizations conducting allowable activities through interagency agreements (IAA), memorandum of understanding (MOU), or contracts with other State or local agencies or nonprofits.

5. Is a State match of funds required?

No.

6. What is the source of the funding?

The funding is provided as part of section 1001 of the American Rescue Plan Act (P.L. 117-2).

7. Will there be prototype Request for Proposals (RFPs)?

There is no RFP process. Funds are provided to State Agencies upon submission and approval of a SF-424 Grants Application Package and budget to USDA. A simplified budget template is provided as attachment 1 of the implementation memo.

Distribution Calculations

8. Are State agencies required to accept State Formula Grant funds?

No. State agency are not required to receive funds. Should a State agency decline or otherwise not accept their allocation, their funds will revert to FNS and may become available for reallocation.

9. Are State agencies permitted to accept less than the full amount of their funding allocation?

State agencies have discretion to accept less than their full allocation.

Financial Management

10. What is the period of performance (i.e., availability) for the funds?

The period of performance for each grant allocated to State agencies will be four years. This means that State agencies must obligate funds received from FNS no later than September 30, 2026. Each State agency will have 120 days following the period performance end date to close-out their funding.

11. How will State agencies receive funds from FNS?

State agencies will complete an FNS-529 *Award Document* with accompanying Terms & Conditions to receive funds. The terms and conditions will outline the performance period, as well as performance and financial reporting requirements. This includes contractual language stipulating the purpose and allowable uses of the funds, as well as the requirements for State agencies described within this guidance document and others that may be published by FNS. State agencies will work with their FNS Regional Office to complete the award process. Please note that the FNS-529 package will be available to State agencies following the release of this guidance.

12. May funds be used to cover the cost of past (i.e., retroactive) expenditures?

No. Funds may not be used to cover the cost of past expenditures and may only be used for current/future expenses. This may include new obligations, or bills on prior unpaid obligations that come due following the receipt of funds.

13. May State agencies use any portion of their funds allocation for administrative expenses?

Yes.

Accountability, Oversight, and Recordkeeping

14. Will funds be monitored as part of the school meal programs Administrative Review and/or FNS review processes?

Yes. Farm to School State Formula funds will be monitored consistent with other school meal program funds through the existing oversight measures used in FNS reviews of State agencies [Management Evaluations (MEs) and/or Financial Management Reviews (FMRs)]. In addition, use of funds may be subject to future external audit activity under any existing/standard auditing practices.

15. How detailed are the reporting requirements?

State agencies will be required to submit quarterly SF-425, Financial Status Report entitled, *PAN-CN-ARPA-F2S-FG - CN F2S State Agency Grants* in FNS' Food Program Reporting System (FPRS). Additionally, States will submit an annual FNS- 908, Performance Progress Report, using the narrative portion of the form. The FNS-908 should be submitted via email to the FNS Regional Office in PDF format. Specific reporting requirements, to include program office contacts for the FNS-908 Performance Progress Report will be outlined in the terms and conditions of the FNS-529 award package. This includes the expectations for the narrative progress report on State performance to show achievement of grant goals and objectives as required by 2 CFR 200.301 and 200.329.

16. Can these funds be combined with other funding or grant sources? (For example, is there a way this can be an “add-on” to State administrative expenses (SAE) funds so that it isn’t a separate process for State agencies?)

No. These funds must be kept separate to allow for proper tracking and oversight. Congress has provided these funds as part of section 1001 of the American Rescue Plan Act (P.L. 117-2). FNS must provide and report on the funds separately. So, FNS is unable to add these funds to the SAE allocation.

Reallocation

17. Will FNS reallocate funding?

Grant funds may be reallocated and made available, subject to availability of federal funds.

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STANDARD TERMS AND CONDITIONS

Effective February 15, 2022, all new grant awards, as well as amendments to existing USDA Food and Nutrition grants, are subject to the following Standard Terms and Conditions.

The USDA Food and Nutrition Service (hereinafter referred to as “Agency”) awards funding to the Grantee (hereinafter referred to as “Recipient”). By acceptance of this award, the Recipient agrees to comply with the terms and conditions of the award listed below.

The Recipient will conduct the project as described in its submission of the Standard Form 424 application and budget narrative, including any subsequent revisions, amendments and/or clarifications.

Important information regarding the award, including the Agency contact and CFDA number, is contained on the Grant/Cooperative Agreement Form FNS-529.

STANDARD TERMS OF THE AWARD

- 1. Funding:** The Agency will provide funds to the Recipient in the amount stated on the Grant/Cooperative Agreement Form FNS-529, Box 11, and as specified in the grant award letter, for use in accordance with this agreement. Funds will be provided at the Agency’s discretion through the Letter of Credit, Reimbursement, or in advance of need, upon receipt of a properly executed Grant/Cooperative Agreement Form FNS-529.
- 2. Performance Period:** The period of performance for this project is listed on the Grant/Cooperative Agreement Form FNS-529, Box 20 and 21, i.e., September 30, 2022 through September 30, 2026. The Recipient may only incur allowable costs during the period of performance. Any pre-award costs incurred prior to the period of performance must be approved in writing by the Agency. To maintain effective internal control over funds, the Recipient shall only withdraw funds for expenses incurred or anticipated within the period of performance. Should the Recipient need to withdraw funds earlier in anticipation of costs incurred in the first month of the period of performance they may do so as long as the draw is timely, i.e., minimal time elapses between the draw and expenditure.

All funds must be obligated and all program activities under the agreement (other than activities related to the close out of the agreement) must be completed by the Expiration Date listed on the Grant/Cooperative Agreement Form FNS-529, Box 21. The closeout of the agreement must occur within 120 days of the expiration date, and all obligations incurred under the agreement must be liquidated by this date.

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- 3. Amendments/Revisions and Budget Changes:** The Recipient may request an amendment or revision to the agreement, including the proposal, in writing at any time during the duration of the agreement. Prior approval is required for any revision of the scope or objectives of the project (regardless of whether there is an associated budget revision); changes in key personnel, such as the project director; disengagement from the project for more than three months (or a 25 percent reduction in time devoted to the project) by the project director; transfer of funds budgeted for participant support costs; the subawarding, transferring or contracting of any work (unless approved in the submitted application package); or changes to budget line cost/expenditure. All amendments or revision must be submitted in writing to the Agency Contact listed on the Grant/Cooperative Agreement Form FNS-529, box 7.

The Recipient may transfer costs within the approved direct cost categories to meet unanticipated requirements. However, as required in [2 CFR 200.308\(f\)](#) the Agency requires that prior approval be obtained for any budget revision that involves a shift of funds among line-items in excess of 10% of the total approved grant budget. Such revisions must be submitted in writing with a revised budget in the same format as the original budget. All other requirements within 2 CFR 200.308 shall also apply.

The Recipient must include justification with any proposed amendment/revision and budget changes. All requests for changes must be made at least 10 calendar days before the end of the grant period. Any request received after this time will not be considered.

- 4. Non-agreement funds:** The Recipient may seek and apply for funds from other sources in support of the mission of the agreement.

REPORTING

- **Quarterly and Final Progress Reports:** The grantee must submit an annual OMB-approved FNS-908 Performance Progress Report. This report must be received by Agency within 30 days following the end of each Federal fiscal year. The grantee is only required to complete the narrative portion of the FNS-908 Performance Progress Report. All other pages contained within the form are not required to be completed.

However, narrative response as outlined below must be provided as attachments to the FNS-908. While the FNS-908 contains a button to allow for direct email submission, this function will be unavailable as a number of required fields will remain unpopulated. The FNS-908 must be saved as a Pdf, with attached narrative and excel attachments as

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outlined below. The FNS-908 must be returned to the regional office contact identified below:

FNS Regional Office	Point of Contact (email)
Mid-Atlantic Regional Office	Howard.Lockstein@usda.gov
Midwest Regional Office	Mike.Chambers@usda.gov
Mountain Plains Regional Office	Cynthia.Archuleta@usda.gov
Northeast Regional Office	Li.Liu@usda.gov
Southeast Regional Office	Izra.Brown@usda.gov
Southwest Regional Office	Jeff.Wingate@usda.gov
Western Regional Office	Rebecca.Hobbs@usda.gov

A final report identifying the accomplishments and results of the project is due no later than 120 calendar days after the period of performance end date.

When completing the narrative portion of the FNS-908 Performance Progress Report, the Recipient will be giving consideration to the following information:

- Goals/objectives and the activities performed in support of these goals/objectives;
- Performance metrics used to measure the success of your farm to school activities
- A narrative description of project progress comparing actual accomplishments to the objectives, tasks completed, and roadblocks or problems;
- Reasons why goals and objectives were not met, if appropriate, particularly at predefined go/no-go decision points, and justification of decision to proceed;
- Budget impact and/or cost information to demonstrate cost effective practices associated within the reporting period;
- Key activities planned for the next report period or a final accomplishment statement if the project has been completed;
- Findings or activities which may require changes in schedules, accomplishments, or costs, particularly those changes which may impact the Recipient's ability to utilize grant funds within the specified time period;
- Other pertinent information including, when appropriate, analysis and explanation of cost overruns; and
- Any unique aspects that you would like to share.

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The Recipient must immediately report any problems, delays, or adverse conditions that impair the Recipient's ability to meet the grant/cooperative agreement objectives. The notification must include information on action taken or contemplated in response to the problem and any assistance needed to resolve the situation.

All materials developed with funding from this agreement must be submitted in an electronic format (preferably Microsoft Word). The Recipient is strongly encouraged to submit Progress Reports via electronic mail to the Grants Officer listed on the FNS-529. If the Recipient wishes to send a hard copy, an original shall be sent to the address listed on the Grant/Cooperative Agreement Form FNS-529, box 18.

- 5. Financial Status Reports:** The Recipient is required to electronically enter the quarterly and final financial status report (SF-425) into the FNS, Food Programs Reporting System (FPRS) under report name "*PAN-CN-ARPA-F2S-FG-CN F2S State Agency Grants.*" Detailed FPRS enrollment instructions are provided at: <https://fprs.fns.usda.gov/>. This report must be entered within 30 days after the close of each quarter. The Final Financial Report must be entered into FPRS within 120 days of the expiration of this agreement. This report must also be certified by the Recipient's chief fiscal officer or an officer of comparable rank.

REGULATORY AND STATUTORY REQUIREMENTS

- 6. Office of Management and Budget (OMB) Guidance:** This Federal financial assistance award is subject to rules and regulations related to the Recipient's organizational entity type as noted below.

Government-wide Regulations

- [2 CFR Part 25: "Universal Identifier and System for Award Management"](#)
- [2 CFR Part 170: "Reporting Sub-award and Executive Compensation Information"](#)
- [2 CFR Part 175: "Award Term for Trafficking in Persons"](#)
- [2 CFR Part 180: "OMB Guidelines to Agencies on Government-wide Debarment and Suspension \(Non-Procurement\)"](#)
- [2 CFR 200: "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards"](#)
- [2 CFR 400: "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards"](#)
- [2 CFR Part 415: "General Program Administrative Regulations"](#)

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- [2 CFR Part 416: “General Program Administrative Regulations for Grants and Cooperative Agreements to State and Local Governments”](#)
- [2 CFR Part 417: “Non-Procurement Debarment and Suspension”](#)
- [2 CFR Part 418 “New Restrictions on Lobbying”](#)
- [2 CFR Part 421: “Requirements for Drug-Free Workplace \(Financial Assistance\)”](#)
- [7 CFR Part 3: “Debt Management”](#)
- [7 CFR Part 16: “Equal Opportunity for Religious Organizations”](#)
- [41 U.S.C. Section 22 “Interest of Member of Congress”](#)
- Privacy Act. The Cooperator/Grantee shall follow the rules and procedures of disclosure set forth in the [Privacy Act of 1974, 5 U.S.C. 552a](#), and implementing regulations and policies, with respect to systems of records determined to be subject to the Privacy Act.
- Freedom of Information Act (FOIA). Public access to Federal Financial Assistance records shall not be limited, except when such records must be kept confidential and would have been excepted from disclosure pursuant to the “Freedom of Information” regulation ([5 U.S.C. 552](#))

PROPERTY STANDARDS

7. Insurance Coverage: The Recipient must provide the equivalent insurance coverage for real property and equipment acquired or improved with Federal funds.

8. Intangible Property:

- a. The Recipient may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under the award ([41 CFR 105-72.406](#)). The Agency reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use the work for “federal purposes” and to authorize others to do so. Federal purposes" include the use of award products in activities or programs undertaken by the Agency, in response to a governmental request, or as otherwise required by federal law. The Agency may request copies of an award product for not-for-profit use. These copies will be provided at the cost of reproduction and shipping, and no royalties or other fees will be charged. However, the Agency’s use of copyrighted materials is not intended to interfere with or disadvantage the recipient or assignee in the sale and distribution of the award product.” The Recipient is subject to applicable regulations governing patents and inventions, including governmentwide regulations issued by the Department of Commerce at [37 CFR P401](#).

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- b. The Agency has the right to:
 - 1. Obtain, reproduce, publish or otherwise use the data first produced under an award; and
 - 2. Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.
 - c. In addition, in response to a Freedom of Information Act (FOIA) request for research data relating to published research findings produced under an award that were used by the Federal Government in developing an agency action that has the force and effect of law, the Agency must request, and the recipient shall provide within a reasonable time, the research data so that they can be made available to the public through the procedures established under the FOIA. If the Agency obtains the research data solely in response to a FOIA request, the Agency may charge the requester a reasonable fee equaling the full incremental cost of obtaining the research data. This fee should reflect costs incurred by the Agency, the recipient, and applicable sub-recipients. This fee is in addition to any fees the agency may assess under the FOIA ([5 U.S.C. 552\(a\)\(4\)\(A\)](#)).
 - d. As defined in [2 CFR 200.315](#), title to intangible property (see definition for *Intangible property* in [2 CFR 200.1](#)) acquired under an award or sub-award vests upon acquisition in the Recipient. The Recipient must use that property for the originally authorized purpose and must not encumber the property without Agency approval. The Agency reserves the right to determine the disposition of the intangible property when it is no longer needed for the originally authorized purpose.
- 9. Federally-owned and exempt property:** Title to federally-owned property remains vested in the Federal entity. The Recipient must submit annually an inventory listing of federally-owned property in its custody to the Agency. Upon completion of the project, or when the property is no longer needed, the recipient must contact the Agency for instruction on utilization or disposition ([2 CFR 200.312](#)).
- 10. Equipment:** Equipment is defined as tangible, nonexpendable personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. The purchase of equipment not included in the approved project budget is allowable only if it is specifically approved beforehand by the Agency and there is

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documentation to support that the purchase is necessary and reasonable to carry out project activities.

Equipment records must be maintained that include the description of the equipment, the serial number or other identification number, the source of funding for the equipment (including the Federal Award Identification Number, or FAIN), the title holder, the acquisition date, the percentage of Federal participation in the project costs for the Federal award under which the equipment was acquired, the location, use, and condition of the equipment, and any ultimate disposition data including the date of disposal and the sale price of the equipment. A physical inventory of the equipment must be taken and the results reconciled with the equipment records at least once every two years. The Recipient will share the results of this inventory. A Tangible Personal Property Report, SF-428, must be submitted at award close-out to report the status of the equipment, if requested.

The Recipient will follow the Agency's equipment disposition guidance and procedures as defined in [2 CFR 200.312](#). Disposition procedures will be provided by the Agency.

11. **Sub-recipient compliance:** The Recipient will ensure that sub-recipients are in compliance with applicable Federal administrative requirements and cost principles. No funds shall be provided to an eligible collaborator or contractor before such an agreement is signed by all parties.

PROCUREMENT STANDARDS

The recipient will adhere to all procurement standards, including those listed below, if applicable, as found in [2 CFR 200.318 through 2 CFR 200.323](#), however, State recipients will comply with [2 CFR 200.317](#). When procuring property and services under a Federal award, a State must follow the same policies and procedures used for procurements from its non-Federal funds.

General procurement standards: The non-Federal entity must use its own documented procurement procedures, which reflect applicable State and local laws and regulations provided that procurements conform to applicable Federal law and the standards identified in this section. The Recipient must maintain oversight over contractors to ensure performance in accordance with the terms, conditions and specifications of their contracts or purchase orders, including written performance standards of its employees engaged in the selection, award and administration of

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contracts. The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. In accordance with [2 CFR 200.318\(j\)\(1\)](#), the non-Federal entity may only use time and material type contracts after a determination that no other contract is suitable and if the contract includes a ceiling that the contractor exceeds at its own risk.

- 12. Competition:** All procurement transactions must be conducted in a manner providing full and open competition consistent with [2 CFR 200.319](#).
- 13. Suspension/Debarment:** The Recipient agrees to ensure that all sub-recipients are neither excluded nor disqualified under the Suspension and Debarment rules found at [2 CFR Part 180](#) and 2 CFR Part [417](#) by doing any one of the following:
 - a. Checking the System for Awards Management (SAM) to determine if the applicant or Recipient has been debarred or suspended. This information can be found at <https://www.sam.gov/>
 - b. Collecting a certification that the entity is neither excluded nor disqualified. Because a Federal certification form is no longer available, the Recipient or sub-Recipient electing this must devise its own.
 - c. Including a clause to this effect in the sub-recipient agreement and in any procurement contract expected to equal or exceed \$25,000, awarded by the Recipient or a sub-recipient within any agreements.

14. Civil Rights:

For all Child Nutrition and Food Distribution Programs:

Assurance of Civil Rights Compliance

The Grantee hereby agrees that it will comply with:

- a. Title VI of the Civil Rights Act of 1964 ([42 U.S.C. 2000d et seq.](#));
- b. Title IX of the Education Amendments of 1972 ([20 U.S.C. 1681 et seq.](#));
- c. Section 504 of the Rehabilitation Act of 1973 ([29 U.S.C. 794](#));
- d. Age Discrimination Act of 1975 ([42 U.S.C. 6101 et seq.](#));

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- e. Title II and Title III of the Americans with Disabilities Act (ADA) of 1990 as amended by the ADA Amendment Act of 2008 ([42 U.S.C. 12131-12189](#));
- f. [Executive Order 13166](#), "Improving Access to Services for Persons with Limited English Proficiency." (August 11, 2000);
- g. All provisions required by the implementing regulations of the Department of Agriculture (USDA) ([7 CFR Part 15 et seq.](#));
- h. Department of Justice Enforcement Guidelines (28 CFR Parts [35](#), [42](#) and [50.3](#));
- i. Food and Nutrition Service (FNS) directives and guidelines to the effect that, no person shall, on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination under any program or activity for which the Program applicant receives Federal financial assistance from USDA; and hereby gives assurance that it will immediately take measures necessary to effectuate this Agreement.
- j. The USDA non-discrimination statement that in accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs).

This assurance is given in consideration of and for the purpose of obtaining any and all Federal financial assistance, grants, and loans of Federal funds, reimbursable expenditures, grant, or donation of Federal property and interest in property, the detail of Federal personnel, the sale and lease of, and the permission to use Federal property or interest in such property or the furnishing of services without consideration or at a nominal consideration, or at a consideration that is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale, lease, or furnishing of services to the recipient, or any improvements made with Federal financial assistance extended to the Program applicant by USDA. This includes any

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Federal agreement, arrangement, or other contract that has as one of its purposes the provision of cash assistance for the purchase of food, and cash assistance for purchase or rental of food service equipment or any other financial assistance extended in reliance on the representations and agreements made in this assurance.

By accepting this assurance, the Grantee agrees to compile data, maintain records, and submit records and reports as required, to permit effective enforcement of nondiscrimination laws and permit authorized USDA personnel during hours of program operation to review and copy such records, books, and accounts, access such facilities and interview such personnel as needed to ascertain compliance with the nondiscrimination laws. If there are any violations of this assurance, the Department of Agriculture, FNS, shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the State agency, its successors, transferees and assignees as long as it receives assistance or retains possession of any assistance from USDA. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the State agency.

RECORD RETENTION AND ACCESS

- 15. Evaluation and Access to Records:** The Recipient will cooperate with any evaluation of the program by providing the Agency requested data and access to records. The Recipient will cooperate with any, as needed, on-site financial and/or technical reviews and audits at any time during the term of the agreement. In addition, the Recipient shall make all records pertaining to activities under the grant available for audit purposes. The Recipient will require any sub-recipient or contractors to comply with the requirements of this agreement and ensure that the Agency has access to any sub-recipient or contractors for purposes of evaluating, monitoring or reviewing other operations or records as they relate to this grant. When entering into a sub-award, the Recipient shall ensure that the sub-recipient agreement contains any clause required by Federal Statute or Executive Order and their implementing regulations. Records pertaining to this grant shall be retained by the Recipient for a period of three years from the date of the submission of the annual financial status report, as required under [2 CFR 200.334](#).

NONCOMPLIANCE AND TERMINATION

- 16. Noncompliance:** As provided in [2 CFR 200.340](#), the Agency may unilaterally terminate this grant agreement or recover, withhold, or disallow costs of up to 100

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percent of the funds made available under the agreement if the Recipient fails to comply with any term of the agreement. **The Agency will consider failure to comply with the reporting requirements of this agreement to be a material failure to comply with the agreement and a basis for termination.** If the Agency decides to take action against the Recipient for noncompliance under this agreement, the Agency will provide the recipient written notice of the basis for its determination.

In the event that an award is suspended and corrective action is not taken within 90 days of the suspension effective date, the Agency may issue a notice of termination. No costs that are incurred during the suspension period or after the effective date of termination will be allowable, except those that are specifically authorized by the suspension or termination notice or those that, in the opinion of the Agency, could not have been reasonably avoided.

Within 30 days of the termination date, the Recipient shall furnish to the Agency a summary of progress achieved under the award, an itemized accounting of charges incurred against award funds and cost sharing prior to the effective date of the suspension or termination, and a separate accounting and justification for any costs that may have been incurred after this date.

OTHER REQUIREMENTS

- 18. USDA/FNS acknowledgement:** Unless otherwise advised by the Agency, the Recipient will acknowledge the support of USDA FNS whenever publicizing the work under this grant. To this end, the Recipient must include in any publication resulting from work performed under this grant an acknowledgment in substantially the form set below:

“This project has been funded at least in part with Federal funds from the U.S. Department of Agriculture. The contents of this publication do not necessarily reflect the view or policies of the U.S. Department of Agriculture, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.”

- 19. Liabilities:** The Recipient may not seek any financial recourse from the Agency as a result of any liabilities the Recipient may incur for bodily injury or personal property damage resulting from negligent acts, errors, or omissions of the Recipient, their officers, agents or employees, or if applicable its sub-Recipients or their officers,

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agents, or employees, in performing this agreement. Liabilities of the United States are governed by the Federal Tort Claims Act, [28 U.S.C. 2671 et seq.](#)

- 20. Privacy Act Policy:** The USDA Food and Nutrition Service does not collect any personal identifiable information without explicit consent. To view the Agency's Privacy Act Statement, visit: <https://www.fns.usda.gov/privacy-policy>.
- 21. Program Income:** Program income is money that is earned or received by a Recipient or a sub-Recipient from the activities supported by award funds or from products resulting from award activities. It includes, but is not limited to, income from fees for services performed and from the sale of items produced under an award; usage or rental fees for equipment or property acquired under an award; admission fees; broadcast or distribution rights; and license fees and royalties on patents and copyrights. The Federal share of program income is determined by the percentage of total project costs that are supported by the Agency.

Income Earned During the Award Period: The Federal share of program income earned during the award period shall be retained by the Recipient and, unless the award specifies how such income will be used, the Recipient must use it in the following way:

It may be added to the existing project funding to cover increased costs of the project.

A report of program income earned during the award period must be submitted with the final Federal Financial Report whenever program income is earned during the award period or when the terms and conditions of the award specifically require such a report. The report shall indicate the total amount of program income that was earned and how it was used.

If income is to be returned to the Agency, the grantee should utilize the ASAP.gov System. If a check must be submitted, the check should be made payable to the Food and Nutrition Service (FNS) and identified as program income must be submitted to the Accounting Division at the following address:

USDA Food and Nutrition Service
ATTN: Accounting Division
P.O. Box 979027
St. Louis, MO 61397-9000

All checks must include: **Project Fiscal Year, Agency Name, and GAD Number.**
Checks lacking the above information will be returned to the grantee.

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Whenever possible, the grantee will return any unobligated funding to the Agency via the ASAP.gov account. The grantee will minimize any transactions utilizing physical checks.

The grantee will draw only those funds needed for to pay for expenditures. The draws for these expenditures will occur no more than 3 days in advance of need whenever possible.

POST CLOSEOUT ADJUSTMENTS AND COLLECTIONS

22. Post-closeout adjustments: If the Recipient needs to return funds at the end of the grant period, the Recipient shall log in to their ASAP account and conduct a book adjustment to return the funds electronically. ASAP is only accessible to those with an ASAP login, so the Recipient will need to contact the ASAP help desk directly at <https://fiscal.treasury.gov/asap/contact.html> if assistance is needed. The closeout of a Federal award does not affect:

- The right of the Agency to disallow costs and recover funds on the basis of an audit or later review;
- The obligation of a Recipient to return funds as a result of later cost adjustments;
- Audit requirements;
- Property management and disposition requirements; and
- Record retention requirements.

23. Collections: Any funds paid in excess of the amount in which the non-Federal entity is finally determined to be entitled will constitute a debt to the Federal Government. If these funds are not repaid within 90 days, the Agency may: make an administrative offset; withhold advance payments or take other necessary actions. In addition, interest will accrue on this overdue debt in accordance with the Federal Claims Collections Standards ([31 CFR 900 through 999](#)).