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Authority: 5 U.S.C. 301; Pub. L. 101–576, 104 Stat. 2838.

Subpart A—General

§ 3020.1 Purpose.

This part establishes Department wide standards for USDA's administration of Federal programs.

§ 3020.2 Applicability.

(a) *USDA agreements.* Except as provided for in paragraph (c) of this section, this part applies to all USDA agreements.

(b) *USDA agreement recipients.* Except as provided for in paragraph (c) of this section, this part is applicable to all USDA agreement recipients including subrecipients.

(c) *Exceptions.* This part does not apply to:

(1) Procurement contracts or other agreements subject to the Federal Acquisition Regulation (FAR) or the Agriculture Acquisition Regulation (AgAR).

(2) Agreements providing loans or insurance directly to an individual.

(3) Agreements with foreign governments.

(4) Agreements entered into under statutory authorities that explicitly exempt such agreements from chapter 63 of title 31, United States Code.

(5) Cooperative research and development agreements entered into under 15 U.S.C. 3710a.

§ 3020.3 Conflicting policies and deviations.

(a) Except when authorized to act otherwise by statute or by a waiver by the Office of the Chief Financial Officer (OCFO), the provisions in this part apply and take precedence over any individual USDA agency regulations, directives, and policies dealing with the administration of USDA agreements.

(b) Responsibility for developing, interpreting, and updating this part is assigned to the OCFO.

§ 3020.4 Other regulations applicable to USDA agreements.

(a) Related issuances are in other parts of title 7 as follows:

(1) 7 CFR part 3016 “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments;”

(2) 7 CFR part 3017 subparts A–E “Governmentwide Debarment and Suspension (Nonprocurement);”

(3) 7 CFR part 3017 subpart F “Governmentwide requirements for Drug-Free Workplace (Grants);”

(4) 7 CFR part 3018 “New Restrictions on Lobbying;”

(5) 7 CFR part 3019 “Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, Other Nonprofit Organizations, and For-Profit Organizations;”

(6) 7 CFR part 3052 “Audits of States, Local Governments, and Nonprofit Organizations;”

(b) Entitlement and mandatory awards are included in the scope of part 3016 and part 3019 of this chapter as determined by the type of recipient.

(c) Awarding agencies are to apply the rules in part 3019 of this chapter to for-profit entities.

Subpart B—Basic Requirements

§ 3020.10 Authority clause.

(a) USDA agencies must include in every USDA agreement a clause citing the appropriate statutory and funding authority for the agreement.

(b) USDA agencies shall ensure that only those statutorily authorized Federal resources are used in support of any agreement.

(c) USDA agencies shall establish appropriate internal control systems to ensure that each agreement is administered within the related statutory authority.

§ 3020.11 Identification and use of USDA agreements.

(a) In accordance with 31 U.S.C. Chapter 63, a USDA agency shall use the following criteria in identifying the proper type of instrument to document a procurement or an assistance relationship with a non-Federal party.

(1) *Procurement relationship.* A USDA agency shall use a procurement contract when “the principal purpose of the relationship is to acquire (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government.” The administration of these agreements is subject to the rules set out in the Federal Acquisition Regulation (FAR), 48 CFR Chapter 1, and the Agriculture Acquisition Regulation (AgAR), 48 CFR Chapter 4.

(2) *Federal assistance relationship.*

(i) *Grant agreement.* A USDA agency shall use a grant agreement when “the principal purpose of the relationship is to transfer a thing of value (money, property, services, etc.) to the recipient

to carry out a public purpose of support or stimulation authorized by a law of the United States instead of acquiring (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government,” and “substantial involvement is not expected” between the USDA agency and the recipient when carrying out the contemplated activity.

(ii) *Cooperative agreement.* A USDA agency shall use a cooperative agreement when “the principal purpose of the relationship is to transfer a thing of value to the recipient to carry out a public purpose of support or stimulation authorized by law of the United States instead of acquiring (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government,” and “substantial involvement is expected” between the USDA agency and the recipient when carrying out the contemplated activity.

(b) *Memorandum of Understanding (MOU).* A USDA agency may use an MOU as a planning document to define the nature, terms, and conditions for facilitating and coordinating efforts of mutual interest to the parties involved. An MOU is not an obligating document and may not be used to commit USDA assets or resources in any manner. Other types of agreements may be used in conjunction with an MOU to achieve any needed commitments.

(c) *Interagency and intra-agency agreements.* Agreements between two or more Federal entities which result in the transfer of funds or other resources for the purpose of carrying out a program, initiative, activity or function of the Federal government shall be either an inter- or intra-agency transfer.

(d) *Agreements with institutions of higher education, hospitals, non-profit, and for-profit organizations.* Any USDA agreement, regardless of title but excluding agreements subject to the rules set out in the FAR and the AgAR, between a USDA agency and any institution of higher education, hospital, non-profit, or for-profit organization will be governed by this part and part 3019 of this chapter. This includes USDA agreements with these types of foreign organizations unless specifically excluded or exempted by treaty or statute.

(e) *Agreements with State, local and tribal Governments.* Any USDA agreement, regardless of title except for agreements subject to the rules set out in the FAR and the AgAR, between a USDA agency and any State, local or tribal government will be governed by this part and part 3016 of this chapter.