

§ 3020.12 Program reporting requirements.

The following are mandatory reporting requirements for all USDA agreements:

(a) *Catalog of Federal Domestic Assistance (CFDA)*. (1) In accordance with the Federal Program Information Act (31 U.S.C. chapter 61), USDA agencies shall submit CFDA information consistent with standards, time lines, and formats established by the General Services Administration (GSA) or any successor central guidance agency for any program that has been determined to be a domestic assistance program as defined in that Act.

(2) Based on the information submitted, the OCFO, in consultation with GSA, shall assign an appropriate permanent or temporary CFDA number.

(3) USDA agencies shall include the CFDA number in any printed or electronic information available to any non-Federal entity, including but not limited to regulatory actions published in the **Federal Register** and program announcements.

(b) *Federal Assistance Award Data System (FAADS)*. (1) In accordance with the Federal Program Information Act and section 201 of the Intergovernmental Cooperation Act of 1968 (31 U.S.C. 6502), USDA agencies shall submit FAADS information consistent with standards, time lines, and formats established by the OCFO and the Department of Commerce or any successor central guidance agency for programs involving financial transactions that have been determined to be domestic assistance as defined in the Federal Program Information Act. Non-financial transactions such as dissemination of technical information, advisory services or consulting by Federal employees are not to be reported in FAADS.

(2) Agencies are encouraged to transmit FAADS data on-line. Agencies may also transmit FAADS data using the batch or tape methods of data collection and transmission provided that such methods meet established FAADS standards and are approved in advance by the OCFO.

§ 3020.13 Acknowledgment of support on publications and audiovisuals.

(a) *Publications*. Recipients shall acknowledge USDA awarding agency support, whether cash or in-kind, in any publications written or published with Federal support and, if feasible, on any publication reporting the results of, or describing, a Federally supported activity.

(b) *Audiovisuals*. Recipients shall acknowledge USDA awarding agency support in any audiovisual produced

with Federal support that has a direct production cost to the recipient of over \$5,000. Unless the terms of the Federal award provide otherwise, this requirement does not apply to:

(1) Audiovisuals produced under mandatory or formula grants or under subawards.

(2) Audiovisuals produced as research instruments or for documenting experimentation or findings and not intended for presentation or distribution to the general public.

(c) *Waivers*. USDA awarding agencies may waive any requirement of § 3020.13. USDA awarding agencies may establish such requirements and procedures for the waiver process as they deem necessary.

§ 3020.14 Competing discretionary awards.

(a) *Standards for competition*. Except as provided in paragraph (c) of this section, USDA awarding agencies shall enter into discretionary assistance agreements only after competition. A USDA agency's competitive award process shall adhere to the following standards:

(1) Potential applicants must be invited to submit proposals through publications and electronic media to achieve the broadest dissemination of project solicitations in order to reach the highest number of potential applicants.

(2)(i) Proposals are to be evaluated objectively by independent reviewers in accordance with written criteria set forth in program solicitations.

Independent reviewers may be from the public or private sector as long as they do not include:

(A) Anyone who has approval authority for the applications being reviewed; or

(B) Anyone who appears to have a conflict of interest in reviewing applications.

(ii) The appearance of a conflict of interest arises when the reviewer or the reviewer's immediate family members have been associated with the applicant or applicant organization within the past two to five years, as determined by the agency, as an owner, partner, officer, director, employee, or consultant; has any financial interest in the applicant or applicant organization; or is negotiating for, or has any arrangement, concerning prospective employment with the applicant. If the awarding agency makes a written determination that the pool of qualified individual reviewers is so small that all or almost all qualified reviewers would have the appearance of or an actual conflict of interest, the awarding agency may waive the appearance of conflicts of interest to

allow a qualified individual to serve as a reviewer. However, the agency may not allow that individual to review any applications for which an actual conflict of interest exists.

(3) An unsolicited application that is not unique and innovative shall be competed under the USDA program solicitation it comes closest to fitting. USDA officials will determine the solicitation under which the application is to be competed. When the USDA awarding agency official decides that the unsolicited application does not fall under a recent, current, or planned solicitation, a noncompetitive award may be made, if appropriate to do so under the criteria of paragraph (c) of this section. Otherwise, the application should be returned to the applicant.

(b) *Approval of applications*. The final decision to award is at the discretion of the awarding official in each agency. The awarding official shall consider the ranking, comments, and recommendations from the independent reviewers, and any other pertinent information before deciding which applications to fund and their order of funding. Any appeals by applicants regarding the award decision shall be handled by the awarding agency using existing agency appeal procedures or, in the absence of established agency appeal procedures, good administrative practice and sound business judgment.

(c) *Exceptions*. The awarding official may make a written determination that competition is not deemed appropriate for a particular transaction. Such determination shall be limited to transactions for which a noncompetitive award can be adequately justified as being in the best interest of the Government and necessary to accomplish the program goals. Reasons to consider noncompetitive award may include, but are not limited to, the following:

(1) Non-monetary awards of property or services;

(2) Awards of less than \$75,000;

(3) Awards to fund continuing work started under a previous award;

(4) Awards relating to a current emergency or substantial danger to health or safety;

(5) Awards for which competition is impracticable; or

(6) Awards to fund unique and innovative unsolicited applications.

§ 3020.15 Program regulations and announcements.

(a) *Publication method*. The **Federal Register** is the preferred, and in certain instances mandatory, method for providing information to the public on