

Wetland Mitigation Banking Program



**Fiscal Year (FY) 2024
Wetlands Mitigation Banking Program
Notice of Funding Opportunity (NFO)
No. USDA-NRCS-NHQ-WMBP-24-NOFO0001315**

Notice of Funding Opportunity (NFO)

SUMMARY INFORMATION

Federal Awarding Agency Name: U.S. Department of Agriculture – Natural Resources Conservation Service (NRCS)

Notice of Funding Opportunity Title: Wetland Mitigation Banking Program

Notice of Funding Opportunity Number: USDA-NRCS-NHQ-WMBP-24-NOFO0001315

Assistance Listing: This program is listed in the Assistance Listings (previously referred to as the Catalog of Federal Financial Assistance) on Sam.gov under 10.933 Wetland Mitigation Banking Program (WMBP) which can be found at: <https://sam.gov/content/home>.

SAM is a web-based, government-wide application that collects, validates, stores, and disseminates business information about the federal government's trading partners in support of the contract awards, grants, and electronic payment processes.

Notice of Funding Opportunity Summary

The Natural Resources Conservation Service (NRCS) delivers conservation solutions so agricultural producers can protect natural resources and feed a growing world. NRCS provides leadership and funding to ensure that all programs and services are made accessible to all customers, fairly and equitably, with emphasis on reaching historically underserved farmers and ranchers and Native American tribal governments and organizations. NRCS is committed to advancing equity, justice, and equal opportunity to ensure equitable access to programs and services available on private agricultural and forest lands.

NRCS is announcing the availability of up to \$7 million in WMBP grant funds for the development and establishment of mitigation banks and banking opportunities solely for agricultural producers with wetlands subject to the wetland conservation compliance provisions of the Food Security Act of 1985 (as amended). WMBP is a competitive grants program accepting proposals from: federally recognized Native American tribal governments; state and local units of government; for-profit entities; nonprofits with or without a 501(c)(3) status with the IRS other than institutions of higher education; private institutions of higher education; and public and state-controlled institutions of higher education. Applications will be accepted from eligible entities in any of the 50 states, the District of Columbia, the Caribbean (Puerto Rico and the U.S. Virgin Islands), and the Pacific Islands (Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands). Priority will be given to banks in states with significant numbers of individual wetlands, wetland acres, and conservation compliance requests. Based on NRCS data, these states are: Iowa, Michigan, Nebraska, Wisconsin, Illinois, Minnesota, Indiana, South Dakota, Pennsylvania, Georgia, and Ohio.

For new users of Grants.gov, see Section D. of the full Notice of Funding Opportunity for information about steps required before submitting an application via Grants.gov.

Key Dates

Applicants must submit their applications via Grants.gov by 11:59 pm Eastern Time on **August 2, 2024**. For technical issues with Grants.gov, contact Grants.gov Applicant Support at 1-800-518-4726 or support@grants.gov. Awarding agency staff cannot support applicants regarding Grants.gov accounts.

For inquiries specific to the content of the NFO requirements, contact the federal awarding agency contact (section G of this NFO). Please limit questions to those regarding specific information contained in this NFO (such as dates, page numbers, clarification of discrepancies, etc.). Questions related to eligibility, or the merits of a specific proposal will not be addressed. A webinar for potential WMBP applicants is scheduled for 12:00 p.m. (EST) on June 12, 2024. You can participate in the webinar through the following options:

Microsoft Teams: [WMBP Webinar Link](#)

Meeting ID: 235 488 356 751

Passcode: tykaMc

Call-In: +1 (202) 650-0123

PIN: 820 732 935#

The agency anticipates making selections by November 2024, and expects to execute awards by February 2025. These dates are estimates and are subject to change.

Federal Funding Floor and Ceiling Amounts

The estimated funding floor for this opportunity is \$100,000 and the estimated funding ceiling is \$1 million. The funding floor means the minimum agreement funding amount for the Federal share per agreement awarded. The ceiling is the maximum agreement funding amount for the Federal share per agreement awarded. These numbers refer to the total agreement amount, not any specific budget period.

Federal Financial Assistance Training

The funding available through this NFO is Federal financial assistance. Grants 101 Training is highly recommended for those seeking knowledge about Federal financial assistance. The training is free and available to the public via <https://www.cfo.gov/resources/federal-financial-assistance-training/>.

It consists of five modules covering each of the following topics: 1) laws, regulations, and guidance; 2) financial assistance mechanisms; 3) uniform guidance administrative requirements; 4) cost principles; and 5) risk management and single audit. FPAC agencies also apply Federal financial assistance regulations to certain non-assistance awards (e.g., non-assistance cooperative agreements).

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A. PROGRAM DESCRIPTION

1. Legislative Authority

The authorizing statutes and regulations for this opportunity is Section 1222(k) of the Food Security Act of 1985 (Pub. L. No. 99-198, also known as the 1985 U.S. Farm Bill), as amended.

2. Program Purpose and Priorities

Purchasing credits from a wetland mitigation bank provides a legal mechanism for agricultural producers to maintain their eligibility for USDA program benefits if they convert agricultural wetlands. A producer may offset the loss of wetland acres and functions resulting from conversion activity by restoring, enhancing, or creating wetland functions and values on a different site. Through a mitigation bank, producers can purchase offsetting wetland credits generated from previously drained (prior to 1985) wetlands that have been restored and approved for wetland mitigation.

WMBP supports establishing and developing wetland mitigation banks to create credits for USDA program participants. WMBP awardees work with the NRCS to develop a mitigation banking instrument that provides details for developing, establishing, and operating a mitigation banking program. Mitigation banking instruments are developed with technical oversight from national and state NRCS staff and are subject to NRCS approval. Awardees must ensure the following wetland types receive priority for mitigation under the NRCS WMBP (note that the wetland designation labels are used by NRCS for implementing the wetland conservation provisions of the Food Security Act of 1985):

- Farmed Wetland (FW)
- Farmed Wetland Pasture (FWP)
- Wetland (W) less than 5 acres in size that is predominantly bordered by land that has been cropped 8 of the past 10 years when the wetland is designated as degraded according to a functional assessment tool approved by NRCS
- Converted Wetland (CW) that, prior to conversion, qualified under one of the types above, as determined by NRCS staff

Proposed projects must be performed in any of the 50 states, the District of Columbia, the Caribbean (Puerto Rico and the U.S. Virgin Islands), and the Pacific Islands (Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands).

NRCS is committed to the success of all of our nation's producers, businesses, and partners. Some of our nation's producers belong to communities which have been or are

marginalized in ways that have reduced their ability to farm and ranch successfully -- despite the vital role that they have played in securing a healthy agricultural economy for our country and protecting, enhancing, and sustaining our valuable natural resources. NRCS encourages proposal submissions from entities that represent, are partnered with, or are composed entirely of producers belonging to such communities.

This is a program covered by the Justice40 Initiative, which set the goal that 40 percent of the overall benefits of certain Federal climate, clean energy, water and wastewater infrastructure, and other covered investments flow to disadvantaged communities that are marginalized by underinvestment and overburdened by pollution.

B. FEDERAL AWARD INFORMATION

1. Available Funding

a. Estimated Funding

The Federal funding agency expects to award approximately \$7 million through this opportunity. However, the agency retains the discretion to award a larger or lesser amount.

Prior year funds will be utilized for this announcement and the awarded agreements.

b. Start Dates and Performance Periods

Projects may be between 1 and 4 years in duration. Applicants should plan their projects based on an estimated project start date of February 2025.

c. Number of Awards

The agency expects to make 10 award(s).

2. Type of Award

a. Type of Federal Award

The agency plans to award a grant agreement pursuant to this opportunity. Depending on the nature of a particular proposal received, the agency may elect to negotiate an alternate award type with the selected applicant.

b. Procurement Contracts

The agency does not expect to award procurement contracts associated with this NFO.

c. Eligibility of Renewal or Supplemental Project Applications

Applications for renewal or supplementation of existing projects are eligible to compete with applications for new Federal awards. An application for renewal means an application submitted to continue an existing agreement that meets the objectives and requirements of this NFO. An application for supplementation of an existing project means an application to add components to an existing agreement so that it would meet the objectives and requirements in this NFO. WMBP is designed to increase the availability of wetland mitigation credits for agricultural producers. Entities may apply to expand an existing mitigation bank or establish a new one. For entities that have received WMBP funding through a previous award, a new proposal submitted under this announcement should clearly define new goals and deliverables and the project budget must be independent of any previous projects.

C. ELIGIBILITY INFORMATION

1. Eligible Applicants

Applicants and applications must meet eligibility criteria by the application deadline to be considered for award. Eligible applicant type is determined by the implementing program statute. Applicant entities identified in the SAM.gov exclusions database as ineligible, prohibited/restricted, or excluded from receiving Federal contracts and certain Federal assistance and benefits will not be considered for Federal funding, as applicable to the funding being requested under this Federal program (2 CFR 200.206(d)). Neither foreign entities nor individuals are eligible to apply for this opportunity.

Eligibility for this opportunity is limited to the following entity types:

- a. City or township governments
- b. County governments
- c. For profit organizations other than small businesses
- d. Native American tribal governments (Federally recognized)
- e. Native American tribal organizations (other than Federally recognized tribal governments)
- f. Nonprofits having a 501(c)(3) status with the IRS (other than institutions of higher education)
- g. Nonprofits that do not have a 501(c)(3) status with the IRS (other than institutions of higher education)
- h. Private institutions of higher education
- i. Public and State-controlled institutions of higher education
- j. Small businesses
- k. Special district governments
- l. State governments

2. Other

Any award made pursuant to this NFO will be made to a single entity. Applicants that apply as “partnerships” or other similar groupings must clearly describe the relationship between the applicant and the “partner” parties. In all but exceptional cases, it must be reflected in the award as an awardee/sub awardee relationship.

An applicant organization may submit more than one application for different projects or proposing different approaches. In the case of applications submitted as revisions or corrections to a previously submitted application under this NFO, the agency will consider the last application submitted prior to the established deadline.

Awards made pursuant to this NFO are not Farm Bill incentive contracts; therefore, the awards in and of themselves are not limited by the payment limitation in 16 USC Chapter 58. However, any agricultural producers receiving a payment through participation in a project awarded under this NFO must meet the eligibility requirements of 7 CFR Part 12 and 7 CFR Part 1400 and have control of the land involved for the term of the proposed award period.

WMBP funding can be used to develop and establish a wetland mitigation bank only for use by agricultural producers. Agricultural wetlands that have previously been converted or manipulated are ideal candidates for mitigation bank development under this program. Eligible entities must operate and manage all aspects of the wetland mitigation bank with technical oversight by NRCS.

Federal funds awarded under this program may be used for:

- a. developing the mitigation banking instrument;
- b. identifying suitable mitigation sites and performing functional assessments to determine the available credits and a credit release schedule;
- c. conducting market research and contracting for mitigation activities;
- d. performing land surveys, permitting, and title searches;
- e. designing and formulating mitigation plans;
- f. restoring, enhancing, or creating wetland mitigation bank sites in accordance with NRCS conservation practice standards;
- g. tracking and managing wetland mitigation data;
- h. funding direct administrative costs associated with implementing the project; and
- i. funding the indirect costs of the awardee (as described in section D.8. of this NFO, “Indirect Cost Limitations”).

3. Match

This NFO requires applicants to match 20 percent of total project costs (includes Federal and non-Federal). Applications that do not include the required level of matching will be ineligible for award. Match may be achieved with contributions of cash, services, materials, equipment, or third-party in-kind contributions. Recipients with unrecovered indirect costs may also use those to meet matching obligations. Funds from another Federal award cannot be used as match except where the Federal statute authorizing a program specifically provides that Federal funds made available for such program can be applied to match. Additional details about matching funds can be found at 2 CFR 200.306. Refer to Section D of this NFO for information about any required submittals related to match requirements. While the pace of match may vary throughout the award period, the agency will actively monitor match levels as it receives payment requests to ensure the total match requirement is met by the award periods of performance end date. Additional details about matching funds are located at 2 CFR 200.306.

D. APPLICATION AND SUBMISSION INFORMATION

1. Information for New Users of Grants.gov

a. Overview

While a Grants.gov account is not required to download an NFO and related documents, it is required to submit an application. If your organization has never submitted an application via Grants.gov, please be aware that there are several steps you must take to register your organization before you can submit an application. **Completing those steps can take a significant amount of time, plan accordingly.**

b. Register to Apply through Grants.gov

Applicants should read the registration instructions carefully and prepare the information requested before beginning the registration process. Reviewing and assembling the required information before beginning the registration process will alleviate last-minute searches for required information. For assistance with the registration process, contact Grants.gov Applicant Support, available 24/7, at 1-800-518-4726 or support@grants.gov.

Organizations must complete all steps to register (steps i. through v. below). Complete organization instructions are included on Grants.gov here: <https://www.grants.gov/applicants/applicant-registration/>

Although creating a Grants.gov account online can be completed online in minutes, SAM registrations may take several weeks. Therefore, organizations should begin the process early to ensure they have sufficient time to complete registration and meet required application submission deadlines.

Individuals (those submitting on their own behalf) are not subject to the Unique Entity Identifier (UEI) or SAM requirement and may begin with step iii., Create a Grants.gov Account, listed below. (Note: Individuals are not eligible for all opportunities.)

c. Steps to Register

- i. *Obtain a UEI:* All entities applying for funding must have a UEI issued by SAM.gov. Applicants must enter the UEI in the data entry field labeled "UEI" on the SF-424 form.
- ii. *Register with SAM:* All organizations (entities) must register with System for Award Management (SAM) to apply online through Grants.gov. Failure to register with SAM will prevent your organization from applying through Grants.gov. SAM registration must be renewed annually. Part of the SAM registration process includes designating an Electronic Business Point of Contact (EBiz POC). **The EBiz POC plays an integral part in the organization's Grants.gov registration and application process.** The individual in that role must authorize all other roles in Grants.gov. For more detailed instructions for registering with SAM, refer to <https://www.grants.gov/applicants/applicant-registration/>
- iii. *Create a Grants.gov Account:* From the Grants.gov webpage (<https://www.grants.gov/>), click "Register" in the top right-hand corner and follow the on-screen instructions.
- iv. *Add a Profile to a Grants.gov Account:* A profile in Grants.gov corresponds to a single applicant organization the user represents (i.e., an applicant) or an individual applicant submitting on their own behalf. If you work for or consult with multiple organizations, you can have a profile for each organization under one Grants.gov account. In such cases you can log in to one Grants.gov account to access all your grant profiles. To add an organizational profile to your Grants.gov account, enter the UEI for the organization in the UEI field. If you are an individual applicant submitting on your own behalf, you do not need a UEI to add the profile. For more detailed instructions about creating a profile on Grants.gov, refer to <https://www.grants.gov/applicants/applicant-registration/add-profile>
- v. *EBiz POC Authorized Profile Roles:* After you register with Grants.gov and create an Organization Applicant Profile, you must establish roles for individuals in the organization. The Authorized Organizational Representative (AOR) role is critical; it gives an individual permission to complete and submit applications on behalf of the organization. Without this role, the organization cannot submit any applications. The request for role assignment will be routed to the organization's EBiz POC for approval. Once approved, the AOR can submit an application online. For more detailed

instructions about creating a EBiz POC authorized profile on Grants.gov, refer to

<https://www.grants.gov/applicants/applicant-registration/ebiz-poc-authorizes-profile-roles>

Track Role Status: To track your role request, refer to

<https://www.grants.gov/applicants/applicant-registration/track-profile-role-status>

d. Electronic Signature

When applications are submitted through Grants.gov, the name of the organization applicant with the AOR role that submitted the application is inserted into the signature line of the application, serving as the electronic signature. The EBiz POC **must** authorize people who are able to make legally binding commitments on behalf of the organization as a user with the AOR role. **This step (step c.v. above) is often missed, and it is crucial for valid and timely submissions.**

e. Workspace

Workspace is a shared, online environment where members of a grant team may simultaneously access and edit different webforms within an application. For each NFO, you can create individual instances of a workspace. An applicant can start an application in Workspace and return to work on it later within Workspace.

Applicants using unreliable internet connections should be aware that the process of completing the Workspace can take some time. Therefore, applicants should allow enough time to prepare and submit the application before the package closing date.

f. Apply for an Opportunity

Below is an overview of applying on Grants.gov. For complete instructions on how to apply for opportunities, refer to <https://www.grants.gov/applicants/workspace-overview/>

If the Apply button in the opportunity is not active (greyed out), the user does not have the appropriate permissions or has an incomplete applicant registration. For additional information, refer to

<https://grantsgovprod.wordpress.com/2023/06/08/unlock-the-mystery-of-the-gray-apply-button-four-scenarios/#:~:text=The%20Apply%20button%20will%20be,to%20view%20the%20close%20date.>

- i. Create a Workspace: Creating a workspace allows you to complete an application online and route it through your organization for review before submitting.

- ii. Complete a Workspace: Add participants to the workspace to work on the application together, complete all the required forms online or by downloading PDF versions, and check for errors before submission. The Workspace progress bar will display the status of your application process as you apply. As you apply using Workspace, you may click the blue question mark icon near the upper-right corner of each page to access context-sensitive help.
 - Adobe Reader: If you decide not to apply by filling out webforms you can download individual PDF forms in Workspace. The individual PDF forms can be downloaded and saved to your local device storage, network drive(s), or external drives, then accessed through Adobe Reader.

NOTE: Visit the Adobe Software Compatibility page on Grants.gov to download the appropriate version of the software at <https://www.grants.gov/applicants/adobe-software-compatibility>
 - Mandatory Fields in Forms: In the forms, you will note fields marked with an asterisk and a different background color. These fields are mandatory fields that must be completed to successfully submit your application.
 - Complete SF-424 Fields First: The forms are designed to fill in common required fields across other forms, such as the applicant name, address, and UEI. Once it is completed, the information will transfer (i.e., prepopulate) to the other forms.
- iii. Submit a Workspace: An application may be submitted through workspace by clicking the Sign and Submit button on the Manage Workspace page, under the Forms tab. Grants.gov recommends submitting your application package at least 24-48 hours prior to the close date to provide you with time to correct any potential technical issues that may disrupt the application submission.
- iv. Track a Workspace Submission: After successfully submitting a workspace application, a Grants.gov Tracking Number (GRANTXXXXXXXX) is automatically assigned to the application. The number will be listed on the Confirmation page that is generated after submission. Using the tracking number, access the Track My Application page under the Applicants tab or the Details tab in the submitted workspace.

For additional training resources, including video tutorials, refer to <https://www.grants.gov/applicants/applicant-training>

2. Electronic Application Package

Applicants interested in submitting an application in response to this NFO must submit it via Grants.gov; the agency will not accept applications submitted via email or any other method. No exceptions will be made for applicants experiencing issues with Grants.gov unless a known system wide Grants.gov issue is identified, in which case

the deadline will be extended for all applicants, as appropriate. Applicants are urged to submit early to the Grants.gov system.

For technical issues with Grants.gov, contact Grants.gov Applicant Support, available 24/7, at 1-800-518-4726 or support@grants.gov. Awarding agency staff cannot support applicants regarding Grants.gov accounts.

Address to Request Application Package

All information necessary to apply for this opportunity is included in the [Grants.gov](#) opportunity announcement.

3. Content and Form of Application Submission

The agency may choose not to consider applications that fail to comply with the required content, format, and page limits, or those that are incomplete. Do not submit video files or files larger than 10MB. File names of attachments must be limited to 50 characters, may not include special characters (e.g., &, -, *, %, /, #), periods (.), blank spaces or accent marks, and must be unique (i.e., no other attachment may have the same file name). An underscore (example: my_Attached_File.pdf) may be used to separate a file name. Attachments must **NOT** be password protected.

To be considered for funding under this opportunity, an application must contain the documents in a-h below.

a. Application Form

(Standard Form 424 Application for Federal Assistance) See Instructions for Completing SF 424 located in the appendices section.

b. Executive Summary (1-page maximum)

On a single page, provide the following information:

- (1) the applicant entity name;
- (2) the lead contact for the project, with email address and phone number (NRCS will use the contact identified as the primary applicant contact);
- (3) the duration of the project in months (maximum 48 months), which is the anticipated agreement length between NRCS and the awardee;
- (4) the amount of Federal funding requested;
- (5) a brief project description of the project, including a summary of the activities to be accomplished under the WMBP grant;
- (6) a brief description of project deliverables, including the planned number of wetland bank site acres to be restored, enhanced, or created, and an estimate of the number of wetland credits to be offered through the bank; and

(7) the geographic location (region or area) of the state or tribal land impacted by the program.

c. Project Narrative

Each page must be numbered and have one-inch margins. The text of the project narrative must be single spaced and typed in a standard typeface (e.g., Times New Roman, Arial, Courier) with no smaller than 12-point font. The project narrative must not exceed 10 pages. This page limitation applies to the project narrative only.

(i) Project Objectives and Deliverables

(a) Describe how NRCS funding will be used to establish and develop a wetland mitigation bank site available to agricultural producers. Provide an estimate of the number of acres the project proposes to restore, enhance, or create for inclusion in the mitigation bank. Include activities supported by partner funding (e.g., land or easement acquisition) and the number of credits that will be made available to agricultural producers.

(b) Describe the complexity of the planned restorations and the extent to which the project is “shovel ready.” If the site is not ready for construction or has not been secured, describe the plan to secure the land or easements, obtain necessary approvals, and begin construction. If sites have not been secured, describe the plan for locating and securing project sites without NRCS assistance.

(ii) Project Timeline

NRCS provides priority consideration to projects that can be completed in a short timeframe. Generally, all of the work needed for banks to offer mitigation credits to agricultural producers should be completed and the credits made available within 24 months. Provide a bulleted list of key project actions, milestones, and deliverables.

(iii) Project Management

(a) List key personnel and describe their qualifications, experience, and anticipated contributions to the project.

(b) Describe your organization’s prior experience establishing and operating wetland mitigation banks.

(iv) Project Marketing

(a) It is critical that agricultural producers in the mitigation bank’s service area are aware that the bank offers a mitigation option. Describe how the project will be marketed to USDA program participants.

(b) Describe your organization’s previous experience working with

[marginalized producers](#), along with the plan to: (1) conduct outreach to marginalized producers who might have restorable wetlands or mitigation banking sites on their land, and (2) promote the availability of credits to marginalized producers.

(v) Project Evaluation

Describe the methodology and procedures that will be used to evaluate the success of the project.

(vi) Assessment of Environmental Impact

(a) Please describe the environmental impact of planned wetland restoration, enhancement, or creation and its extent. The description of the potential environmental impact must address both the beneficial effects and the possible adverse effects of the proposed action. The length of the description should be commensurate with the complexity of the proposed project and the natural resources effected directly, indirectly, or cumulatively.

(b) Where possible, information on environmental impacts should be quantified, such as the number of acres of wetlands impacted, the volume of dredging needed, the number of feet for ditch filled or the tile drains plugged, etc. Natural resources include soil, water, air, plants, and animals, as well as other resources protected by law, regulation, Executive order, and agency policy. NRCS may choose not to approve funding for projects that may result in unacceptable adverse environmental impacts.

If your proposal will include information collection from non-Federal sources, ensure the collection meets the requirements of the Paperwork Reduction Act. Surveys of individuals or entities are generally prohibited without prior approval from the Office of Management and Budget. For additional guidance about allowable and unallowable activities, please visit the [Digital.gov Do I Need a Clearance?](#) webpage.

The following documents do not count toward the previously stated page limit.

d. Standard Form (SF) 424A, Budget Information - Non-Construction Programs

Fill in all spaces as appropriate. Section B, Item 6, Column 1 should reflect the agency funds, and Column 2 should reflect the applicant's matching funds. This form is the summary budget for the project and should include the full project totals on pages one and two. See Instructions for Completing SF 424A located in the appendices section. Refer to Section D of this opportunity for information regarding indirect costs. Errors in the SF-424A regarding classifying costs may be negotiated after selection.

e. Budget Narrative

In a separate document titled “Budget Narrative,” explain and justify all requested budget items/costs. (Refer to the budget narrative guidance located in the appendices section.) Detail how the totals on the SF-424A were determined and demonstrate a clear connection between costs and the proposed project activities. For personnel salary costs, include the base-line salary figures and the estimates of time (as percentages) to be directly charged to the project. Describe any item that under the applicable Federal cost principles requires the agency’s approval and estimate its cost. The pages included as the budget narrative to not count toward the page limit. Errors in the budget narrative regarding classifying costs may be negotiated after selection. Refer to the Budget Narrative Guidance located at the end of this document regarding procurement standards when including contracts for goods or services. **Sole-source contracting is prohibited without proper justification.** See Procurement Standards located at 2 CFR 200.317-327.

- i. Build America, Buy American. “Buy America” preference applies to Federal financial assistance awards that include construction components, even if it is funded by both Federal and non-Federal funds under the award. Subawards should conform to the terms and conditions of the Federal award from which they flow. A Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to a construction project. Refer to the General Terms and Conditions for additional information:
<https://www.fpacbc.usda.gov/about/grants-and-agreements/award-terms-and-conditions/index.html>
- ii. Indirect Costs Recovery. If requesting indirect costs, provide the calculation specifying the amounts used in applying the base (the base specified in the applicable rate agreement) by the applicable rate. The calculation can be displayed in different formats but must capture the components (i.e., amounts used in determining the base and the rate applied to the base).
 - A. To be eligible to recover any indirect costs under a Federal award, recipients must either 1) have a current negotiated indirect cost rate agreement (NICRA) with a Federal agency that has not expired; or 2) qualify for use of the de minimis rate authorized by 2 CFR 200.414(f) and described below. For-profit entities (if eligible to apply) must obtain a NICRA from their cognizant agency. USDA will not accept an indirect cost agreement that is not a NICRA, for example, those negotiated or approved by the Defense Contract Audit Agency or the Defense Contract Management Agency.

A copy of the applicant’s current NICRA must be provided with the application (see section D(3)(i)). Indirect costs may not be recovered

under an expired NICRA. For applicants negotiating a NICRA, provide a copy of the indirect cost rate proposal submitted to the cognizant agency. See section D(3)(h) below for how to submit a NICRA as part of the application.

- B. Any non-Federal entity (except State and local governments that receive more than \$35 million per year in Federal funding) that does not have a current negotiated (including provisional) rate may elect to charge a de minimis rate of 10 percent of modified total direct costs (MTDC) which may be used indefinitely. No documentation is required to justify the 10 percent de minimis indirect cost rate, simply indicate in your budget narrative that the recipient elects to use the de minimis rate. Modified Total Direct Cost (MTDC) means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of each subaward (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward in excess of \$25,000. Other items may only be excluded when necessary to avoid a serious inequity in the distribution of indirect costs, and with the approval of the cognizant agency for indirect costs.
- C. As described in [2 CFR 200.403](#), costs must be consistently charged as either indirect or direct costs but may not be double charged or inconsistently charged as both. If chosen, this methodology once elected must be used consistently for all Federal awards until such time as a non-Federal entity chooses to negotiate for a rate, which the non-Federal entity may apply to do at any time.
- D. A recipient may voluntarily reduce or waive recovery of indirect costs at its sole discretion and must not be encouraged or coerced in any way to do so by the agency.

iii. Indirect Costs Limitations.

- A. In accordance with USDA's annual appropriations act, indirect costs will be limited to no more than 10 percent of total direct costs for non-profit organizations or institutions of higher education that receive a cooperative or contribution agreement. Other types of entities are not subject to this statutory limitation. An applicant subject to the statutory limitation with a current NICRA, must calculate indirect costs as follows. First, multiply the NICRA rate by the base stated in the NICRA to arrive at Amount A. Next, multiply the statutory limit of 10 percent by the total of all direct costs to arrive at Amount B. The

lower of Amount A and B is the amount of indirect cost to include on the budget.

- B. Applicants not subject to a statutory limitation, which have a current NICRA must calculate indirect costs using the rate and base specified in their NICRA.
- C. Recipients are prohibited from shifting unallowable indirect costs to another Federal award unless specifically authorized to do so by legislation.
- D. Applicants who are individuals applying for funds separate from a business or non-profit organization they may operate are not eligible to charge indirect costs to their award. If you are an individual applying for funding, do not include any indirect costs in your proposed budget.

iv. Match.

Matching must be committed at the time of application submission. The budget narrative must show the amounts and sources of match (including both cash and in-kind contributions).

Refer to the Budget Narrative Guidance located in the appendices section for information about making contract vs. subaward determinations.

f. Grants.gov Lobbying Form

Under Title 31 of the United States Code, Section 1352, an applicant or recipient must not use any federally appropriated funds (both annually appropriated and continuing appropriations) or matching funds under a grant or cooperative agreement award to pay any person for lobbying in connection with the award. Lobbying is defined as influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress connection with the award. Submission of an application also represents the applicant's certification of the statements in 2 CFR Part 418, Appendix A-Certification Regarding Lobbying.

g. Applicant Contact Information

Provide contact information for the roles identified in the Applicant Contact Information template, located in the Related Documents tab of the opportunity. Upload the contact information under Other Attachments (listed as an Optional Form) in the Grants.gov Opportunity Application Package.

h. Statement of Current and Pending Support

Submit a Statement of Current and Pending Support for each key personnel who will participate in the project. For your convenience, a template is available for your use in the Related Documents tab of the opportunity. Upload the statement under Other Attachments (listed as an Optional Form) in the Grants.gov Opportunity Application Package.

i. SF-LLL, Disclosure of Lobbying Activities

SF-LLL, Disclosure of Lobbying Activities, must be submitted **only** if you/your organization have/has made or agrees to make any payment using non-appropriated funds for lobbying. See 2 CFR 418.110 for more information on when additional submission of this form is required.

j. Negotiated Indirect Cost Rate Agreement (NICRA), if applicable

If charging indirect costs using a NICRA (including for match), upload the NICRA under Other Attachments (listed as an Optional Form) in the Grants.gov Opportunity Application Package.

k. Letters of Support

Letters of support are not required but are welcomed. Letters of support are provided by individuals or entities who want to express their enthusiasm for the project. Letters of support can also be written by partners or subawardees to confirm their intent to participate in the project. NRCS staff cannot be written into the proposal nor should NRCS letters of support be included.

Letters of support must be signed by the authorized organizational representative of the organization and must include the project name and name, address, and telephone number of the organization. The agency may conduct reference checks to ensure that organizations identified are supportive of the project. Upload letters of support under Other Attachments (listed as an Optional Form) in the Grants.gov Opportunity Application Package.

l. Letters of Intent

Letters of intent are not required and should not be submitted.

m. Disclosure of Potential Conflict of Interest

In accordance with 2 CFR 400.2, applicants must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees in the selection, award, and administration of Federal awards. No employee, officer, or agent may participate in the selection, award, or administration of a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties referenced, has a financial or other interest in, or a tangible personal benefit from, an applicant considered for a Federal award. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the applicant.

If the applicant has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the applicant must also maintain written standards of conduct covering organizational conflicts of interest.

Organizational conflict of interest means that because of the relationships with a parent company, affiliate, or subsidiary organization, the applicant is unable or appears to be unable to be impartial in conducting a Federal award action involving a related organization.

Applicants must disclose in writing any potential conflicts of interest to the USDA awarding agency or pass-through entity. Include the name of the individual, the name of the entity with which the individual has a conflict, the nature of the financial or other interest, the value of the interest, a description of how the interest relates to your application. Upload disclosures under Other Attachments (listed separately under Optional Forms) in Grants.gov. **If no conflict exists, no submission is required.**

n. Post Award Documentation

Not applicable

o. Unique entity identifier (UEI) and System for Award Management (SAM)

Each applicant (unless the applicant is an individual excepted from those requirements under 2 CFR 25.110(b) or (c), or has an exception approved by the Federal awarding agency under 2 CFR 25.110(d)) is required to: (i) Be registered in SAM before submitting its application; (ii) provide a valid unique entity identifier in its application; and (iii) continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by a Federal awarding agency. The agency may not make a Federal award to an applicant until the applicant has complied with all applicable unique entity identifier and SAM requirements and, if an applicant has not fully complied with the requirements by the time the agency is ready to make an award, it may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant.

Entities must obtain a UEI and register in SAM prior to registering with Grants.gov. A description of each is below. Entities are strongly encouraged to apply early for their SAM registration.

System for Award Management (SAM) Registration: To register, go to: <https://www.sam.gov>. The Federal Service Desk is available for registration assistance and can be contacted via the Help tab at the website listed above.

Awarding agency staff cannot support applicants regarding UEI or SAM issues.

4. Submission Dates and Times and Correspondence

All applications must be received by Grants.gov by 11:59 pm Eastern Time (ET) by the established due date in the Key Dates section of the Summary Information of this NFO. Proof of timely submission is automatically recorded by Grants.gov. An electronic date/time stamp is generated within the system when the application is successfully received by Grants.gov.

Applications received by Grants.gov after the established due date will be considered late and will not be considered for funding. An application is considered on time at 11:59.59 pm ET, but it is late at 12:00 am ET.

Grants.gov will provide either an error or a successfully received transmission in the form of an email sent to the applicant with the Authorized Organizational Representative (AOR) role attempting to submit the application. The Grants.gov Support Center reports that some applicants end the transmission because they think that nothing is occurring during the transmission process; be patient and give the system time to process the application.

The applicant with the AOR role who submitted the application will receive:

- an acknowledgement of receipt and a tracking number (GRANTXXXXXXXXX) from Grants.gov with the successful transmission of their application.
- an email with the official date/time stamp and Grants.gov tracking number serving as proof of timely submission.

When the agency successfully retrieves the application from Grants.gov, and acknowledges the download of submissions, Grants.gov will also provide an electronic acknowledgment of receipt of the application to the applicant with the AOR role who submitted the application. Proof of timely submission shall be the official date and time that Grants.gov receives your application.

If you have trouble submitting an application to Grants.gov, contact the Grants.gov Help Desk to resolve any issues. See Section D. 2. for Grants.gov contact information.

Applicants using unreliable internet connections should be aware that the process of completing the Workspace can take some time. Therefore, applicants should allow enough time to prepare and submit the application before the package closing date.

5. Intergovernmental Review

This funding opportunity is not subject to Executive Order 12372, "Intergovernmental Review of Federal Programs." When completing the SF-424, check block c, "Program is not covered by E.O. 12372."

6. Funding Restrictions

Funds may not be used to pay any of the following costs unless otherwise permitted by law and approved in writing by the agency in advance of incurring such costs:

- a. Purchase of land or conservation easement(s).
- b. Expenses incurred after the grant agreement between NRCS and the awardee has expired.
- c. Expenses or activities that have already been funded by NRCS through another program.
- d. Purchase, rental, or installation of fixed equipment.
- e. Profit and management fees. Any funds awarded to for-profit entities must be used for reimbursement of award related direct and indirect costs only.

- f. Costs above the amount of funds authorized for the project.
- g. Costs incurred prior to the effective date of the award, including time spent applying for this opportunity.
- h. Costs which lie outside the scope of the approved project and amendments thereto.
- i. Entertainment costs, regardless of their apparent relationship to project objectives.
- j. Compensation for injuries to persons, or damage to property arising out of project activities.
- k. Consulting services performed by a Federal employee during official duty hours when such consulting services result in the payment of additional compensation to the employee.
- l. Capital expenditures for general purpose equipment, buildings, and land and for improvements to land, buildings, or equipment which materially increase their value or useful life. See 2 CFR 200.439 for additional information.
- m. Meals may be charged to an award only if they are necessary for the performance of the project. For instance, meals (normally only lunch) that are a necessary part of the costs of meetings and conferences (i.e., required attendance and continuity of a meeting), the primary purpose of which is the dissemination of information, are allowable, as are costs of transportation, rental of facilities, speakers' fees, and other items incidental to such meetings or conferences. Note: Meals consumed while in official travel status do not fall in this category. They are considered to be per diem expenses and should be reimbursed in accordance with the organization's established travel policies subject to statutory limitations or in accordance with Federal travel policies.
- n. Costs normally charged as [indirect costs](#) may not be charged as [direct costs](#) without proper justification and agency approval. Proper justification includes documentation that the costs meet the criteria for allowability (see 2 CFR 200.403). Examples of such costs include rent, utilities, depreciation on buildings and equipment, the costs of operating and maintaining facilities, and general administration and general expenses, such as the salaries and expenses of executive officers, personnel administration, and accounting.
- o. Salaries that are not commensurate with level of work. All costs must be reasonable to be allowable (2 CFR 200.403), and 2 CFR 200.404 defines a reasonable cost as one if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. Salaries determined not to be reasonable compared to the level of work will be unallowable.
- p. Software produced by non-domestic entities. Project budgets must not include costs (both Federal costs and match) for software development by non-domestic entities if it will be utilized by the Federal government or hosted on Federal systems.
- q. Refer to Section D for applicable indirect cost restrictions, if any.

This list is not exhaustive. For additional information please refer to 2 CFR Part 200, subpart E, Cost Principals.

E. APPLICATION REVIEW INFORMATION

1. Review and Selection Process

Applications will be screened for completeness and compliance with the provisions of this notice. Incomplete, noncompliant, and/or applications not meeting the formatting criteria may be eliminated from competition. In that event, the agency will send notification of elimination to the applicant. The agency intends to select and award without conducting any discussions or allowing applicants to correct deficiencies or omissions in their applications. Consequently, applicants must ensure their applications are complete and accurate. However, while the agency intends to select without contacting applicants, it reserves the right to request applicants to revise their applications to correct deficiencies or omissions it identifies. If this occurs, the agency will conduct discussions with all applicants, identify deficiencies and omissions for all, and give applicants an opportunity to submit a revised application by a common cut-off date. The agency may also contact individual applicants to clarify certain components of their applications.

Merit/technical reviews will be conducted by a technical review board nominated by the approving official. Risk reviews will be conducted by the FPAC Business Center, Grants and Agreements Division. The approving official will make the final award decisions. The approving official for this opportunity is the NRCS Chief.

NRCS will use a grant agreement to provide program funds to each selected applicant. The project budget period, amount of Federal assistance, terms and conditions of the award, and reporting requirements will be described and provided to the selected applicants as a part of this process.

The wetlands and other natural resources that are part of a mitigation bank developed with NRCS funding must be protected by a conservation easement. The WMBP website contains a set of minimum easement deed terms that must be included in a conservation easement associated with the program.

The applicant is responsible for enforcing all easements.

2. Merit/Technical Criteria

a. Geographic Scope and Project Goals

(1) The proposal identifies clear, measurable, and achievable goals and deliverables, including the planned number of wetland acres to be restored, enhanced, or created for inclusion in the wetland bank with an estimate of the number of credits to be made available through the bank.

(2) Priority will be given to banks based in locations with significant numbers of individual wetlands, wetland acres, and conservation compliance requests.

According to NRCS data, these locations are Iowa, Michigan, Nebraska, Wisconsin, Illinois, Minnesota, Indiana, South Dakota, Pennsylvania, Georgia, and Ohio.

b. Project Management

- (1) The applicant has a proven track record of establishing and operating wetland mitigation banks, including success in selling bank credits to agricultural producers.
- (2) The applicant describes a sound marketing plan for marketing the wetland bank to USDA program participants.
- (3) The proposal describes the applicant's previous experience working with marginalized producers and includes a specific plan for marketing the wetland bank program to marginalized individuals and landowners. This plan should include one or both of the following elements, with preference given to plans that include both:
 - (a) a plan to conduct outreach to marginalized producers who might have restorable wetlands or mitigation bank sites on their land, and
 - (b) a plan to promote the availability of credits to marginalized producers.
- (4) Project staff has the necessary capacity, technical, and administrative expertise to restore wetlands and operate a wetland mitigation bank.
- (5) The budget is fully explained and justified, and expenses are allowable.

c. Bank Development and Operation

- (1) The proposal has a specific plan for locating and securing potential wetland mitigation bank sites. Proposals that have already secured a mitigation site will receive priority consideration.
- (2) The proposal describes a reasonable approach to ensure that the land to be restored, enhanced, or created is appropriate for wetland mitigation.
- (3) The proposal includes a plan for accelerated development of one or more mitigation bank sites to make available mitigation credits within 24 months of project initiation.
- (4) If applicable, the application describes how NRCS conservation practice standards will be followed for wetland restoration activities.
- (5) The bank description illustrates a high potential for successful establishment and operation of a mitigation bank for agricultural producers seeking to comply with Farm Bill wetlands compliance provisions.

Applicant entities identified in the SAM.gov exclusions database as ineligible, prohibited, restricted, or excluded from receiving Federal contracts, certain subcontracts, and certain Federal assistance and benefits will not be considered for Federal funding, as applicable to the funding being requested under this Federal program (2 C.F.R. § 200.205).

3. Administrative and Risk Criteria

Notice of selection after merit/technical evaluation does not guarantee that an applicant will receive an award. Following notification of selection for funding (see Section F), the FPAC Business Center, Grants and Agreements Division's staff conducts a final administrative and risk review of those applications. The administrative review includes, but is not limited to, a check to ensure that NFO requirements were met (e.g., applicant meets eligibility criteria, application was submitted via Grants.gov by the established deadline), and proposed costs are allowable, allocable, and necessary. During this process, it may be necessary to request further documentation from the applicant (e.g., organizational information as part of the risk assessment, more detail regarding proposed costs).

In addition, to comply with the requirements at 2 CFR 200.206, the agency will follow, at a minimum, the risk review process described below (additional steps may be taken).

The awarding agency will check SAM to ensure the applicant is not suspended or debarred, which would preclude receiving an award. In addition, prior to making a Federal award with a total Federal share greater than the simplified acquisition threshold (\$250,000), the agency must review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM (the Federal Awardee Performance Integrity Information System, FAPIIS) (see 41 USC 2313 and 2 CFR 200.206(a)).

An applicant must meet the following standards to be considered for award:

a. **Financial Stability**

The applicant maintains an adequate financial resources or cash flow to meet its financial obligations on a routine basis in order to successfully complete any agreement it may be awarded.

b. **Quality of Management Systems and Ability to meet Management Standards prescribed in 2 CFR Part 200**

The applicant has a financial management system adequate to segregate and track federal funds. It has adequate systems in place for proper agreement administration; compliance with the standards outlined in 2 CFR Part 200 Section D for procurement, property, and records management; and required financial and performance reporting.

c. **History of Performance**

If the applicant has previously obtained Federal financial assistance award, it has never failed to materially comply with the Federal award terms and conditions and further has never had an award terminated on that basis.

Submission of an application constitutes certification that an applicant meets these standards (items a. through c. above). The agency may request documentation to substantiate the certification. Based on risk assessment, the agency may impose specific award conditions in accordance with 2 CFR 200.208.

4. Awards Over the Simplified Acquisition Threshold (if applicable)

- a. Prior to making a Federal award with a total Federal share greater than the simplified acquisition threshold (\$250,000), the agency must review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM, the Federal Awardee Performance Integrity Information System, FAPIIS. FAPIIS is a federal database intended to serve as a government-wide source of information about the prior performance and compliance of federal procurement contractors, grantees, and cooperative agreement holders (see 41 U.S.C. 2313 and 2 CFR 200.206(a)).
- b. An applicant may review information in FAPIIS accessible through SAM and comment on any information about it that a Federal awarding agency previously entered.
- c. The agency will consider any comments by the applicant, in addition to the other information in FAPIIS, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in 2 CFR 200.206, Federal awarding agency review of risk posed by applicants.

F. FEDERAL AWARD ADMINISTRATION INFORMATION

1. Federal Award Notices

The agency will provide notice that an application has been selected before it actually makes the Federal award. As such, the selection notification is not an authorization to begin performance. Reimbursement of pre-award costs require written agency prior approval. The Notice of Grant and Agreement Award (ADS-093) signed by the authorized agency official is the only authorizing document and will be provided electronically to the entity's authorized official for signature.

Both successful and unsuccessful applicants will be notified of the award decision via letter.

2. Administrative and National Policy Requirements

All project funds will be used in accordance with 2 CFR Part 200 and the General Terms and Conditions, which are available at the following website:

<https://www.fpacbc.usda.gov/about/grants-and-agreements/award-terms-and-conditions/index.html>.

Projects performed pursuant to this opportunity may be subject to the National Environmental Policy Act (NEPA). If applicable, NRCS must work with awardees to complete an environmental review of each awarded project before project commencement. In addition, prior to any ground-disturbing activities related to NRCS funding, the awardee must work with NRCS staff to complete an environmental evaluation (EE) related to those activities. Awardees may be required

to prepare or pay for preparation of an environmental assessment (EA) or environmental impact statement (EIS), should any environmental review find that an EA or EIS is required.

In addition, a National Historic Preservation Act (NHPA), Section 106 review and consultation by an NRCS State or area office with consulting parties (such as the pertinent State Historic Preservation Officer and federally recognized Indian Tribes) may be required prior to the implementation of project activities that have the potential to impact cultural resources. NHPA Section 106, its implementing regulations (36 CFR Part 800), and other related authorities, require Federal agencies to determine if a project has the potential to cause an effect to historic properties and, if so, if they are adverse and how the effects may be addressed. The NHPA review and compliance in accordance with Section 106 of NHPA and implementing regulations at 36 CFR Part 800 must be completed by NRCS and applicants may be required to pay for any cultural resource surveys needed for NRCS to assess project effects. More information on the applicant's role in the NHPA Section 106 process can be found on the Advisory Council on Historic Preservation website at

<https://www.achp.gov/digital-library-section-106-landing/section-106-applicant-toolkit>.

Consultation with the U.S. Fish & Wildlife Service and/or the National Marine Fisheries Service under the Section 7 of the Endangered Species Act (ESA) is also required for projects that may affect listed or proposed species or destroy or modify critical habitat. The ESA consultation in accordance with Section 7 of the ESA and implementing regulations at 50 CFR Part 402 must be completed by NRCS prior to the implementation of project activities that have the potential to impact species or habitat protected under the ESA. More information on the Section 7 consultation process can be found at

<https://www.fws.gov/service/esa-section-7-consultation>.

3. Reporting

Reporting will follow the guidelines included in the agency's General Terms and Conditions, which are available at the following website:

<https://www.fpacbc.usda.gov/about/grants-and-agreements/award-terms-and-conditions/index.html>

If the Federal share of any agreement awarded under this opportunity notice may include more than \$500,000 over the period of performance, recipients must also comply with the post award reporting requirements reflected in Appendix XII of 2 CFR Part 200 – Award Term and Condition for Recipient Integrity and Performance Matters.

Applicants that receive awards pursuant to this opportunity and any sub awardees must comply with the reporting requirements described at 2 CFR Part 170 unless an exception applies. Applicants must ensure they have the necessary processes and

systems in place to comply with those requirements. A list of exceptions can be found at 2 CFR 170.110(b).

4. Audit Requirements

As required in 2 CFR Part 200, Subpart F Audit Requirements, all U.S. states, local governments, Federally recognized Indian tribal governments, and non-profit organizations expending \$750,000 or more in Federal award funds in a fiscal year must submit a Single Audit report for that year through the Federal Audit Clearinghouse's Internet Data Entry System. FPAC agencies also require for-profit organizations that meet the expenditure threshold to comply with the single audit requirements and submit their audit reports directly to the funding agency.

G. FEDERAL AWARDING AGENCY CONTACT

For questions regarding this opportunity, contact the following individual with the opportunity number in the subject line:

Name: Tessa Garcia
Grants Management Specialist
FPAC Business Center

Email: tessa.garcia@usda.gov with a copy to NFO.FPAC@USDA.GOV

To protect the integrity of the competitive process, applicants must not contact agency program staff with questions.

H. OTHER INFORMATION

1. Questions regarding this opportunity must be submitted to the Federal Awarding Agency Contact identified above via email with the opportunity number in the subject line.
2. For technical issues with Grants.gov, please contact Grants.gov Applicant Support at 1-800-518-4726 or support@grants.gov. Awarding agency staff cannot support applicants regarding Grants.gov accounts.

3. Freedom of Information Act (FOIA)

Applications are considered confidential information. Applications are not shared with individuals or entities seeking public disclosure through the Freedom of Information Act (FOIA) without the consent of the applicant. More specifically, Executive Order 12600 and USDA FOIA regulation 7 CFR Part 1, Subpart A requires the awarding agency to provide notice to applicants that a third party has requested copies of their business information and requires the awarding agency to consult with applicants regarding the releasing their records.

4. Government Obligation

The Federal Government is not obligated to make any Federal award as a result of this opportunity. Only authorized federal officials can bind the Federal Government to the expenditure of funds.

5. Any award made pursuant to this NFO may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

U.S. Department of Agriculture Non-Discrimination Statement

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). Remedies and complaint filing deadlines vary by program or incident.

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

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at <https://www.usda.gov/oascr/filing-program-discrimination-complaint-usda-customer> and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter 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
- (2) Fax: (202) 690-7442; or
- (3) Email: program.intake@usda.gov

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