

as under the order. This rule provides the same partial exemption under the import regulation so it conforms to the changes under the order.

This action represents a small increase in costs for imports of Vintage Ripes™, primarily from costs associated with developing and maintaining an IP program. However, the costs are minimal. This results in increased sales of Vintage Ripes™. Consequently, the benefits of this action more than offset the associated costs.

This final rule will not impose any additional reporting or recordkeeping requirements beyond the IP program on either small or large tomatoes importers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Additionally, except for applicable domestic regulations, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this final rule. Further, the public comment received concerning the proposal did not address the initial regulatory flexibility analysis.

A proposed rule concerning this action was published in the **Federal Register** on March 9, 2009 (74 FR 9969). The rule was made available through the Internet by USDA and the Office of the Federal Register. A 60-day comment period ending May 8, 2009, was provided to allow interested persons to respond to the proposal.

One comment was received during the comment period in response to the proposal. The commenter agreed that heirloom tomatoes are gaining favor in the marketplace, and recognized that such tomatoes have difficulty meeting size and shape requirements under the order. He stated that the exemption provided in this rule should include all heirloom tomatoes.

As previously discussed, the Committee is concerned that granting broad exemptions for unspecified heirloom-type tomatoes could result in the shipment of U.S. No. 3 grade tomatoes of standard commercial varieties, weakening the integrity and the effectiveness of the order. To prevent this and ensure that only the specified varieties are shipped under the exemption granted, the exemption has been tied to continued participation

in the IP program developed by USDA. Further, this is the second exemption of this type to be issued, and other producers of heirloom-type tomatoes are free to seek similar exemptions. Therefore, this rule exempts only Vintage Ripes™, and the exemption is contingent upon maintenance of positive program status under USDA's IP program.

Accordingly, no changes will be made to the rule as proposed, based on the comment received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/AMSV1.o/ams.fetchTemplateData.do?template=TemplateN&page=MarketingOrdersSmallBusinessGuide>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this final rule.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 980

Food grades and standards, Imports, Marketing agreements, Onions, Potatoes, Tomatoes.

■ For the reasons set forth in the preamble, 7 CFR part 980 is amended as follows:

#### PART 980—VEGETABLES; IMPORT REGULATIONS

■ 1. The authority citation for 7 CFR part 980 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

##### § 980.212 [Amended]

■ 2. In § 980.212, paragraph (b)(1) all references to “UglyRipe™” are revised to read “UglyRipe™ and Vintage Ripes™”.

Dated: August 31, 2009.

**Rayne Pegg,**

*Administrator.*

[FR Doc. E9–21353 Filed 9–3–09; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF AGRICULTURE

### Cooperative State Research, Education, and Extension Service

#### 7 CFR Part 3430

RIN 0524–AA28

#### Competitive and Noncompetitive Non-Formula Federal Assistance Programs—General Award Administrative Provisions and Program-Specific Administrative Provisions for the Specialty Crop Research Initiative

**AGENCY:** Cooperative State Research, Education, and Extension Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Cooperative State Research, Education, and Extension Service (CSREES) is publishing as a final rule one set of administrative requirements that contain elements common to all of the competitive and noncompetitive non-formula Federal assistance programs the Agency administers. In a relatively short period of time, this allows CSREES to apply basic rules to Federal assistance programs that had been operating without them, including new non-formula Federal assistance programs created by the enactment of the Food, Conservation, and Energy Act of 2008 (FCEA) and to efficiently implement changes to programs with existing regulations as required by FCEA. The provisions in subparts A through E serve as a single Agency resource codifying current practices simply and coherently for almost all CSREES competitive and noncompetitive non-formula Federal assistance programs except the Small Business Innovation Research (SBIR) Program and the Veterinary Medicine Loan Repayment Program (VMLRP). As specific rules are developed for each CSREES Federal assistance program, CSREES will propose adding a subpart for that Federal assistance program to this regulation. This final rule is published with a first set of program-specific Federal assistance regulations as subpart F for the Specialty Crop Research Initiative, authorized under section 412 of the Agricultural Research, Extension, and Education Reform Act of 1998, as added by section 7311 of FCEA.

**DATES:** *Effective Date:* September 4, 2009, except that §§ 3430.56 and 3430.58(b) shall apply only to a grant or cooperative agreement awarded on or after September 4, 2009 or to a grant or cooperative agreement awarded prior to that date that receives additional funds

from the awarding agency on or after that date.

**FOR FURTHER INFORMATION CONTACT:**

Ellen Danus, Chief, Policy and Oversight Branch, Office of Extramural Programs, Cooperative State Research, Education, and Extension Service, U.S. Department of Agriculture, STOP 2299; 1400 Independence Avenue, SW., Washington, DC 20250-2299; Voice: 202-205-5667; Fax: 202-401-7752; E-mail: [edanus@csrees.usda.gov](mailto:edanus@csrees.usda.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background and Summary**

*Authority*

This rulemaking is authorized by section 1470 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (NARETPA), as amended, Public Law 95-113 (7 U.S.C. 3316). It furthers the streamlining and standardization efforts initiated by the Federal Financial Assistance Management Improvement Act of 1999, Public Law 106-107 (31 U.S.C. 6101 note), which sunset in November 2007, and is in accordance with the efforts of CSREES and the U.S. Department of Agriculture (USDA) to streamline and simplify the entire Federal assistance process while meeting the ever-increasing accountability and transparency standards.

*Context*

CSREES has published administrative provisions specific to some of the non-formula Federal assistance programs it administers. These provisions appear in 7 CFR parts 3400, Special Research Grants Program; 3401, Rangeland Research Grants Program; 3402, Food and Agricultural Sciences National Needs Graduate and Postgraduate Fellowship Grants Program; 3405, Higher Education Challenge Grants Program; 3406, 1890 Institution Capacity Building Grants Program; 3411, National Research Initiative Competitive Grants Program; and 3415, Biotechnology Risk Assessment Research Grants Program. This final rule applies to all competitive and noncompetitive non-formula Federal assistance programs administered by CSREES (including the programs in 7 CFR parts 3400 through 3402, 3405, 3406, 3411, and 3415), except for the Small Business Innovation Research (SBIR) Program with implementing regulations codified at 7 CFR part 3403 and the Veterinary Medicine Loan Repayment Program (VMLRP) with implementing regulations codified at 7 CFR part 3431. Where the administrative provisions in this

regulation conflict with existing regulations for CSREES-administered non-formula Federal assistance programs (*i.e.*, 7 CFR parts 3400 through 3402, 3405, 3406, 3411, and 3415), this regulation will supersede.

*Purpose*

A primary function of CSREES is the fair, effective, and efficient administration of Federal assistance programs implementing agricultural research, education, and extension programs. The Agency's development and publication of regulations for its non-formula Federal assistance programs serve to enhance its accountability and standardize procedures across the Federal assistance programs it administers while providing transparency to the public. More than thirty Federal assistance programs administered by CSREES are not currently governed by administrative provisions; and CSREES' existing administrative provisions fail to take advantage of basic similarities between non-formula Federal assistance programs and the Federal government-wide efforts to standardize and streamline the entire Federal assistance process from pre-award through closeout and post-award. The cumulative effect is duplicative, confusing language, contrary to the needs and demands of applicants and awardees for consistent and clear Federal assistance policies and procedures.

This rulemaking attempts to solve the problem by addressing the elements common to all of the competitive and noncompetitive Federal assistance programs CSREES administers. In this way, the Agency is applying basic rules to Federal assistance programs that had been operating without them and can quickly implement regulations for any new program. In addition, this rule serves as a single resource, except for the SBIR, VMLRP, and formula grant programs, that codifies current processes simply and coherently.

This final rule allows CSREES to finally document and codify the Federal assistance policies and business practices it sought to standardize and streamline in concert with other Federal grant-making agencies in response to various laws (including Pub. L. 106-107), regulations, and Presidential, Departmental, and Agency directives and initiatives. As of fiscal year 2008, CSREES published program solicitations or Requests For Applications (RFAs) in an Agency-wide template (incorporating the Federal government-wide requirements and standards) on the Grants.gov Web site; accepted all

applications (using the SF-424 form families) via Grants.gov; required all competitive and noncompetitive non-formula Federal assistance programs to submit all progress and final technical reports via the Current Research Information System (CRIS); and as of July 1, 2008, implemented a more comprehensive and updated set of award terms and conditions that are consistent with other Federal grant-making agencies, yet address the unique needs of CSREES programs and USDA and CSREES business practices. This final rule also addresses various issues related to audit findings and recommendations from the USDA Office of Inspector General (*e.g.*, timely closeout of expired awards and restriction of grant funds 90 days after the expiration date). In response to Office of Management and Budget (OMB) Circular A-123 on Internal Controls, Improper Payments Information Act of 2002 (IPIA) (Pub. L. 107-300), and other oversight and monitoring requirements, CSREES seeks to clearly establish and implement monitoring and oversight procedures and systems to ensure that Federal assistance funds are being efficiently and effectively expended in accordance with program authorities and Federal assistance laws and regulations.

*Alternatives*

CSREES considered publishing separate rules for each uncovered Federal assistance program. However, this would defeat the purposes of recent laws, regulations, and Presidential, Departmental, and Agency initiatives to standardize and streamline the entire award cycle. Furthermore, it would be a time consuming practice to draft and publish a final rule for each uncovered program. On the other hand, this final rule provides clearer, more consistent and effective Federal assistance policies and procedures for the awardee that will contribute to more efficient and effective program delivery and potentially result in less audit findings and disallowed costs. The Agency expects this final rule to contribute to and facilitate more consistent processes across Federal assistance programs within CSREES and across USDA and the Federal Government. By making better use of standard administrative provisions, CSREES also anticipates being able to publish clearer and more consistent RFAs within a shorter time frame and provide applicants, awardees, staff, and the public with one comprehensive set of administrative provisions.

### Compliance

As implemented, applicants who fail to comply with the new administrative provisions may not have their applications considered for funding by CSREES, may have their award suspended or terminated, or may be billed for disallowed costs. This penalty provision can be enforced and is critical to CSREES' fair, effective, and efficient administration of Federal assistance programs. It is anticipated that having one set of administrative provisions codified in one part will assist applicants and awardees in understanding and complying with Federal assistance laws and regulations, as well as the intent of the authorizing legislation.

### Organization

CSREES organized the regulation as follows: Subparts A through E provide administrative provisions for all competitive and noncompetitive non-formula awards. Subparts F and thereafter apply to specific CSREES programs.

CSREES is, to the extent practical, using the following subpart template for each program authority: (1) Applicability of regulations; (2) purpose; (3) definitions (those in addition to or different from § 3430.2); (4) eligibility; (5) project types and priorities; (6) funding restrictions; and (7) matching requirements. Subparts F and thereafter contain the above seven components in this order, to the extent practical. Additional sections may be added for a specific program if there are additional requirements or a need for additional rules for the program (e.g., additional reporting requirements).

### Subpart F—Specialty Crop Research Initiative

As stated above, this final rulemaking includes the program-specific rules as subpart F for the Specialty Crop Research Initiative (SCRI), which is authorized under section 412 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7632), as added by section 7311 of FCEA.

Through this program-specific regulation under subpart F, § 3430.202, CSREES is defining "integrated project," "specialty crop," and "trans-disciplinary." Subpart F, at § 3430.203, also specifies the eligible program applicants. Section 3430.204 provides that CSREES can develop and implement new activities and focus areas not identified in § 3430.201 based on input provided by stakeholders and as determined by CSREES. Section

3430.205 states the specific program funding restrictions and provides that, subject to § 3430.54, indirect costs are allowable. Section 3430.206 states the specific matching requirements for this program, that these matching requirements cannot be waived, and that use of indirect costs as in-kind matching contributions is subject to § 3430.52. Section 3430.207 states that the term of a SCRI grant shall not exceed 10 years.

## II. Response to Comments and Revisions Included in Final Rule

### Response to Comments

On August 1, 2008, CSREES published 7 CFR 3430, subparts A through F, as an interim rule with a request for comments. CSREES received four comments on the interim rule during the 90-day comment period from the following organizations: American Society for Horticulture Science; Farm Bill Implementation Assistance Committee, National Association of State Universities and Land-Grant Colleges (NASULGC); Purdue University; and The Council on Government Relations, which submitted a joint statement with NASULGC. All four comments focused on the 100 percent matching requirement for the SCRI program and the institutions' inability to use unrecovered indirect costs in excess of the statutory cap of 22 percent as part of the matching contribution for the Federal funds awarded. Three of the organizations were speaking on behalf of their member institutions. With the application of these regulations, many of the institutions felt that they were, in essence, contributing more than half of the cost of the project effort and that CSREES was misinterpreting and misapplying the U.S. Office of Management and Budget (OMB) Federal assistance circulars as well as Federal-wide and Departmental assistance regulations.

In promulgating these regulations, CSREES strived to provide the maximum flexibility and to limit both the financial and administrative burden to its applicants and awardees while adhering to the intent of the legislation and accountability standards. CSREES has determined that, absent specific statutory authority, it has no authority to allow institutions to use indirect costs in excess of the maximum allowed indirect cost rate (e.g., 22 percent for grants, pursuant to 7 U.S.C. 3310) to satisfy the matching requirement. This has been the longstanding policy of CSREES with regard to matching requirements and the use of indirect

costs as a matching contribution. However, in response to the community, Congress enacted section 736 as part of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2009 (Pub. L. 111–8, div. A), to allow institutions to use unrecovered indirect costs not otherwise charged against the grant toward the matching contribution for the SCRI program, consistent with the indirect cost rate approved for the recipient. Consequently, because section 736 applies only in FY 2009, the appropriate sections of the final rule have not been revised in this regard (although §§ 3430.52, 3430.205, and 3430.206 have been modified as a matter of clarification). This new authority for FY 2009 is explained, however, in the FY 2009 RFA for this program. Subpart F will be revised if and when this provision becomes a permanent change to the SCRI authority.

In addition, § 3430.54 is revised to state that the indirect cost rates for grants and cooperative agreements are determined in accordance with the applicable assistance regulations and cost principles unless superseded by another authority.

Under applicable assistance regulations and cost principles, the negotiated indirect cost rates would apply to both grants and cooperative agreements administered by CSREES. However, section 1462(a) of NARETPA (7 U.S.C. 3310(a)) establishes a statutory indirect cost rate cap of 22 percent for any CSREES grant. Prior to the FCEA amendment increasing the cap from 19 to 22 percent, a general provision of the annual appropriations act set the indirect cost rate cap for competitive grants at 20 percent; however, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2009, did not include that general provision for FY 2009. The FY 2009 appropriations act did, however, include a general provision setting the indirect cost rate cap for cooperative agreements to nonprofit institutions (including educational institutions) at 10 percent for awards supported with these appropriated funds.

### Revisions Included in the Final Rule

This final rule was revised throughout to apply this regulation to not only grants but to Federal assistance cooperative agreements, which was the original intention in the interim rule.

Subpart A of the regulation was revised slightly to add definitions for award, cooperative agreement, and program announcement to § 3430.202.

Subpart B was revised to clearly define the differences between optional and required letters of intent and to clarify the eligibility of foreign entities (*i.e.*, individuals and foreign organizations). Subpart C was revised to make several minor clarifications regarding the type of review for competitive versus noncompetitive awards, and subpart D was revised by adding § 3430.42 on special award conditions.

Subpart E was revised to add the U.S. Department of the Treasury's Automated Standard Application for Payments (ASAP) system as an electronic payment system, as CSREES is currently transitioning to this system as part of USDA's implementation of a new accounting system, Financial Management Modernization Initiative (FMMI), on October 1, 2009. Along with this implementation, CSREES is currently exploring options for the implementation of the Federal Financial Report (FFR) required by October 1, 2009, as CSREES has been using the U.S. Department of Health and Human Services' Payment Management System (DHHS-PMS) since January 1991. Currently, awardees provide their PSC-272, Federal Cash Transactions Reports, through the DHHS-PMS. Once the business process for the FFR is established, CSREES will revise its Terms and Conditions and will update this subpart which will coincide with the revisions associated with the establishment of the National Institute of Food and Agriculture effective October 1, 2009.

Subpart E also was revised to make clarifying changes regarding indirect cost rates and use of indirect costs as in-kind matching contributions (§§ 3430.52(b), 3430.54). The previous sections on technical reporting (§ 3430.54), financial reporting (§ 3430.55), and project meetings (§ 3430.56) were renumbered as §§ 3430.55, 3430.56, and 3430.57, respectively. The previous section on hearings and appeals (§ 3430.57) was expanded and added as a new § 3430.62.

CSREES also added sections to clarify policies and procedures on prior approvals (*i.e.*, subcontracts and no-cost extensions of time) (§ 3430.58); review of disallowed costs (§ 3430.59); suspension, termination, and withholding of support (§ 3430.60); and debt collection (§ 3430.61). The previous § 3430.58 was re-titled "Expiring appropriations" from "Closeout" (and renumbered as § 3430.63) and was expanded to include procedures for Federal assistance awards supported with other Federal

agencies' funds (transferred via an interagency agreement) and to specify that final draws need to be executed by no later than June 30th of the final year (although the 90-day period beyond the award expiration date is later) to allow CSREES to properly bill and close-out the interagency agreements before the end of the Federal fiscal year.

As mentioned earlier and based on USDA Office of Inspector General (OIG) audits and annual OMB Circular No. A-123 reviews, CSREES is establishing stricter internal controls to ensure that Federal assistance funds are no longer available for draw-down to the awardee beyond 90 days of the expiration date. In response, CSREES incorporated in this final regulation (§§ 3430.56, 3430.58) procedures for requesting an extension to submit a final SF-269, Financial Status Report; for requesting a no-cost extension of time; and for the approval of draw requests beyond the 90-day period in extenuating circumstances, as determined by CSREES.

Subpart F was revised in § 3430.203 by removing the reference to eligibility of individuals and foreign entities, which is already addressed in § 3430.16. Section 3430.205 was revised by removing provisions regarding indirect costs, which are addressed in §§ 3430.52 and 3430.54. Also, a new § 3430.207 was added to provide that the statutory maximum grant term is 10 years.

Other technical and clarifying edits are made throughout subparts A through F.

### III. Future Rulemaking Activities for 7 CFR Part 3430

CSREES is publishing this rule as final and these regulations apply to all CSREES competitive and noncompetitive non-formula programs (including the programs implemented by 7 CFR part 3400, Special Research Grants Program; 7 CFR part 3401, Rangeland Research Grants Program; 7 CFR part 3402, Food and Agricultural Sciences National Needs Graduate and Postgraduate Fellowship Grants Program; 7 CFR part 3405, Higher Education Challenge Grants Program; 7 CFR part 3406, 1890 Institution Capacity Building Grants Program; 7 CFR part 3411, National Research Initiative Competitive Grants Program; and 7 CFR part 3415, Biotechnology Risk Assessment Research Grants Program). Where these parts conflict with a provision in this rule, this rule takes precedence. As stated previously, this regulation will not apply to the SBIR Program and VMLRP. Within the next three years, CSREES plans to cancel all of the existing program-

specific regulations identified in 7 CFR and incorporate these program-specific regulations as separate subparts under this part 3430. In addition, CSREES is currently drafting a CSREES Grants Policy Manual, which while incorporating the regulations under this part, will apply to both grants and Federal assistance cooperative agreements and provide more specific instructions, detailed explanations, and background for potential applicants, awardees, Agency and Departmental staff, and the public.

Per section 7511 of the FCEA, the Secretary shall establish within the Department an agency to be known as the 'National Institute of Food and Agriculture.' Effective no later than October 1, 2009, the Secretary shall transfer the authorities (including all budget authorities, available appropriations, and personnel), duties, obligations, and related legal and administrative functions of CSREES to the National Institute of Food and Agriculture. Consequently, it is anticipated that this rule will undergo future regulatory action within the next 12 months. At that time, the regulation also will be updated to incorporate the implementation of the FFR as well as the Agency's implementation of the U.S. Department of the Treasury's ASAP system as the Agency's electronic payment management system.

### IV. Administrative Requirements

#### *Executive Order 12866*

This action has been determined not significant for purposes of Executive Order 12866, and therefore, has not been reviewed by the Office of Management and Budget. This final rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; nor will it materially alter the budgetary impact of entitlements, grants, user fees, or loan programs; nor will it have an annual effect on the economy of \$100 million or more; nor will it adversely affect the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way. Furthermore, it does not raise a novel legal or policy issue arising out of legal mandates, the President's priorities or principles set forth in the Executive Order.

#### *Regulatory Flexibility Act of 1980*

This final rule has been reviewed in accordance with the Regulatory Flexibility Act of 1980, as amended by the Small Business Regulatory

Enforcement Fairness Act of 1996, 5 U.S.C. 601–612. The Department concluded that the rule will not have a significant economic impact on a substantial number of small entities. The rule does not involve regulatory and informational requirements regarding businesses, organizations, and governmental jurisdictions subject to regulation.

#### *Paperwork Reduction Act (PRA)*

The Department certifies that this final rule has been assessed in accordance with the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, (PRA). The Department concludes that this final rule does not impose any new information requirements; however, the burden estimates were increased for existing approved information collections associated with this rule due to additional applicants. These estimates were provided to OMB. In addition to the SF–424 form families (*i.e.*, Research and Related and Mandatory), SF–272, Federal Cash Transactions Report, and SF–269, Financial Status Reports, CSREES has three currently approved OMB information collections associated with this rulemaking: OMB Information Collection No. 0524–0042, CSREES Current Research Information System (CRIS); No. 0524–0041, CSREES Application Review Process; and No. 0524–0026, Assurance of Compliance with the Department of Agriculture Regulations Assuring Civil Rights Compliance and Organizational Information.

#### *Catalog of Federal Domestic Assistance*

This final regulation applies to the following Federal assistance programs administered by CSREES including 10.200, Grants for Agricultural Research—Special Research Grants; 10.206, Grants for Agricultural Research—Competitive Research Grants; 10.210, Food and Agricultural Sciences National Needs Graduate Fellowship Grants; 10.215, Sustainable Agriculture Research and Education; 10.216, 1890 Institution Capacity Building Grants; 10.217, Higher Education Challenge Grants; 10.219, Biotechnology Risk Assessment Research; 10.220, Higher Education Multicultural Scholars Program; 10.221, Tribal Colleges Education Equity Grants; 10.223, Hispanic Serving Institutions Education Grants; 10.225, Community Food Projects; 10.226, Secondary and Two-Year Postsecondary Agriculture Education Challenge Grants; 10.227, 1994 Institutions Research Program; 10.228, Alaska Native Serving and Native Hawaiian Serving Institutions

Education Grants; 10.303, Integrated Programs; 10.304, Homeland Security—Agricultural; 10.305, International Science and Education Grants; 10.306, Biodiesel; 10.307, Organic Agriculture Research and Extension Initiative; 10.308, Resident Instruction for Insular Area Activities; 10.309, Specialty Crop Research Initiative; 10.310, Agriculture and Food Research Initiative; 10.311, Beginning Farmer and Rancher Development Initiative; 10.312, Biomass Research and Development Initiative; 10.314, New Era Rural Technology Program; and 10.500, Cooperative Extension Service.

#### *Unfunded Mandates Reform Act of 1995 and Executive Order 13132*

The Department has reviewed this final rule in accordance with the requirements of Executive Order No. 13132 and the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*, and has found no potential or substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. As there is no Federal mandate contained herein that could result in increased expenditures by State, local, or tribal governments or by the private sector, the Department has not prepared a budgetary impact statement.

#### *Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

The Department has reviewed this final rule in accordance with Executive Order 13175 and has determined that it does not have “tribal implications.” The final rule does not “have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.”

#### *Clarity of This Regulation*

Executive Order 12866 and the President’s Memorandum of June 1, 1998, require each agency to write all rules in plain language. The Department invites comments on how to make this final rule easier to understand.

#### **List of Subjects**

Administrative practice and procedure, Agricultural research, Education, Extension, Federal assistance.

■ For the reasons discussed in the preamble, the Cooperative State Research, Education, and Extension

Service is amending Chapter XXXIV of Title 7 of the Code of Federal Regulations to revise part 3430 to read as follows:

### **PART 3430—COMPETITIVE AND NONCOMPETITIVE NON-FORMULA FEDERAL ASSISTANCE PROGRAMS—GENERAL AWARD ADMINISTRATIVE PROVISIONS**

#### **Subpart A—General Information**

- Sec.
- 3430.1 Applicability of regulations.
  - 3430.2 Definitions.
  - 3430.3 Deviations.
  - 3430.4 Other applicable statutes and regulations.

#### **Subpart B—Pre-award: Solicitation and Application**

- 3430.11 Competition.
- 3430.12 Requests for applications.
- 3430.13 Letter of intent to submit an application.
- 3430.14 Types of applications; types of award instruments.
- 3430.15 Stakeholder input.
- 3430.16 Eligibility requirements.
- 3430.17 Content of an application.
- 3430.18 Submission of an application.
- 3430.19 Resubmission of an application.
- 3430.20 Acknowledgment of an application.
- 3430.21 Confidentiality of applications and awards.

#### **Subpart C—Pre-award: Application Review and Evaluation**

- 3430.31 Guiding principles.
- 3430.32 Preliminary application review.
- 3430.33 Selection of reviewers.
- 3430.34 Evaluation criteria.
- 3430.35 Review of noncompetitive applications.
- 3430.36 Procedures to minimize or eliminate duplication of effort.
- 3430.37 Feedback to applicants.

#### **Subpart D—Award**

- 3430.41 Administration.
- 3430.42 Special award conditions.

#### **Subpart E—Post-award and Closeout**

- 3430.51 Payment.
- 3430.52 Cost sharing and matching.
- 3430.53 Program income.
- 3430.54 Indirect costs.
- 3430.55 Technical reporting.
- 3430.56 Financial reporting.
- 3430.57 Project meetings.
- 3430.58 Prior approvals.
- 3430.59 Review of disallowed costs.
- 3430.60 Suspension, termination, and withholding of support.
- 3430.61 Debt collection.
- 3430.62 Award appeals procedures.
- 3430.63 Expiring appropriations.

#### **Subpart F—Specialty Crop Research Initiative**

- 3430.200 Applicability of regulations.
- 3430.201 Purpose.
- 3430.202 Definitions.
- 3430.203 Eligibility.
- 3430.204 Project types and priorities.

- 3430.205 Funding restrictions.  
 3430.206 Matching requirements.  
 3430.207 Other considerations.

**Authority:** 7 U.S.C. 3316; Pub. L. 106–107 (31 U.S.C. 6101 note)

## Subpart A—General Information

### § 3430.1 Applicability of regulations.

(a) *General.* This part provides agency specific regulations regarding the application for, and evaluation, award, and post-award administration of, Cooperative State Research, Education, and Extension Service (CSREES) awards, and is supplementary to the USDA uniform assistance regulations at 7 CFR parts 3016 (State, local, and tribal governments), 3019 (institutions of higher education, hospitals, and nonprofits), and 3015 (all others), as applicable. These regulations apply to the following types of Federal assistance awards: Grants and cooperative agreements.

(b) *Competitive programs.* This part applies to all agricultural research, education, and extension competitive and related programs for which CSREES has administrative or other authority, as well as any other Federal assistance program delegated to the CSREES Administrator. In cases where regulations of this part conflict with existing regulations of CSREES in Title 7 (*i.e.*, 7 CFR parts 3400 through 3499) of the Code of Federal Regulations, regulations of this part shall supersede. This part does not apply to the Small Business Innovation Research (SBIR) Program (7 CFR part 3403) and the Veterinary Medicine Loan Repayment Program (VMLRP) authorized under section 1415A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (NARETPA) (7 U.S.C. 3151a).

(c) *Noncompetitive programs.* Subparts A, B, D, and E, as well as § 3430.35 of subpart C, apply to all noncompetitive agricultural research, education, and extension programs administered by CSREES, as well as any other Federal assistance program delegated to the CSREES Administrator.

(d) *Federal assistance programs administered on behalf of other agencies.* Subparts A through E, as appropriate, apply to competitive and noncompetitive grants and cooperative agreements administered on behalf of other agencies of the Federal Government. Requirements specific to these Federal assistance programs will be included in the program solicitations or requests for applications (RFAs).

(e) *Federal assistance programs administered jointly with other agencies.* Subparts A through E, as

appropriate, apply to competitive and noncompetitive grants and cooperative agreements administered jointly with other agencies of the Federal Government. Requirements specific to these Federal assistance programs will be included in the appropriate program solicitations or RFAs published by both or either agency.

(f) *Formula fund grants programs.* This part does not apply to any of the formula grant programs administered by CSREES. Formula funds are the research funds provided to 1862 Land-Grant Institutions and agricultural experiment stations under the Hatch Act of 1887 (7 U.S.C. 361a, *et seq.*); extension funds provided to 1862 Land-Grant Institutions under sections 3(b) and 3(c) of the Smith-Lever Act (7 U.S.C. 343(b) and (c)) and section 208(c) of the District of Columbia Public Postsecondary Education Reorganization Act, Public Law 93–471; agricultural extension and research funds provided to 1890 Land-Grant Institutions under sections 1444 and 1445 of NARETPA (7 U.S.C. 3221 and 3222); expanded food and nutrition education program funds authorized under section 3(d) of the Smith-Lever Act (7 U.S.C. 343(d)) to the 1862 Land-Grant Institutions and the 1890 Land-Grant Institutions; extension funds under the Renewable Resources Extension Act of 1978 (16 U.S.C. 1671, *et seq.*) for the 1862 Land-Grant institutions and the 1890 Land-Grant Institutions; research funds provided to the 1862 Land-Grant Institutions, 1890 Land-Grant Institutions, and forestry schools under the McIntire-Stennis Cooperative Forestry Act (16 U.S.C. 582a, *et seq.*); and animal health and disease research funds provided to veterinary schools and agricultural experiment stations under section 1433 of NARETPA (7 U.S.C. 3195).

### § 3430.2 Definitions.

As used in this part:

*1862 Land-Grant Institution* means an institution eligible to receive funds under the Act of July 2, 1862, as amended (7 U.S.C. 301, *et seq.*). Unless otherwise stated for a specific program, this term includes a research foundation maintained by such an institution.

*1890 Land-Grant Institution* means one of those institutions eligible to receive funds under the Act of August 30, 1890, as amended (7 U.S.C. 321, *et seq.*), including Tuskegee University and West Virginia State University. Unless otherwise stated for a specific program, this term includes a research foundation maintained by such an institution.

*1994 Land-Grant Institution* means one of those institutions as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994, as amended (7 U.S.C. 301 note). These institutions are commonly referred to as Tribal Colleges or Universities.

*Administrator* means the Administrator of CSREES and any other officer or employee of the CSREES to whom the authority involved is delegated.

*Advisory Board* means the National Agricultural Research, Extension, Education, and Economics Advisory Board (as established under section 1408 of NARETPA (7 U.S.C. 3123)).

*Agricultural research* means research in the food and agricultural sciences.

*Applied research* means research that includes expansion of the findings of fundamental research to uncover practical ways in which new knowledge can be advanced to benefit individuals and society.

*Authorized Departmental Officer or ADO* means the Secretary or any employee of the Department with delegated authority to issue or modify award instruments on behalf of the Secretary.

*Authorized Representative or AR* means the President or Chief Executive Officer of the applicant organization or the official, designated by the President or Chief Executive Officer of the applicant organization, who has the authority to commit the resources of the organization to the project.

*Award* means financial assistance that provides support or stimulation to accomplish a public purpose. Awards may be grants or cooperative agreements.

*Budget period* means the interval of time (usually 12 months) into which the project period is divided for budgetary and reporting purposes.

*Cash contributions* means the recipient's cash outlay, including the outlay of money contributed to the recipient by non-Federal third parties.

*College or university* means, unless defined in a separate subpart, an educational institution in any State which:

- (1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;
- (2) Is legally authorized within such State to provide a program of education beyond secondary education;
- (3) Provides an educational program for which a bachelor's degree or any other higher degree is awarded;
- (4) Is a public or other nonprofit institution; and

(5) Is accredited by a nationally recognized accrediting agency or association. Unless otherwise stated for a specific program, this term includes a research foundation maintained by such an institution.

*Cooperative agreement* means the award by the Authorized Departmental Officer of funds to an eligible awardee to assist in meeting the costs of conducting for the benefit of the public, an identified project which is intended and designed to accomplish the purpose of the program as identified in the program solicitation or RFA, and where substantial involvement is expected between CSREES and the awardee when carrying out the activity contemplated in the agreement.

*Department* means the United States Department of Agriculture.

*Education activity or teaching activity* means formal classroom instruction, laboratory instruction, and practicum experience in the food and agricultural sciences and other related matters such as faculty development, student recruitment and services, curriculum development, instructional materials and equipment, and innovative teaching methodologies.

*Established and demonstrated capacity* means that an organization has met the following criteria:

- (1) Conducts any systematic study directed toward new or fuller knowledge and understanding of the subject studied; or,
- (2) Systematically relates or applies the findings of research or scientific experimentation to the application of new approaches to problem solving, technologies, or management practices; and
- (3) Has facilities, qualified personnel, independent funding, and prior projects and accomplishments in research or technology transfer.

*Extension* means informal education programs conducted in the States in cooperation with the Department.

*Extension activity* means an act or process that delivers science-based knowledge and informal educational programs to people, enabling them to make practical decisions.

*Food and agricultural sciences* means basic, applied, and developmental research, extension, and teaching activities in food and fiber, agricultural, renewable energy and natural resources, forestry, and physical and social sciences, including activities relating to the following:

- (1) Animal health, production, and well-being.
- (2) Plant health and production.
- (3) Animal and plant germ plasm collection and preservation.

(4) Aquaculture.

(5) Food safety.

(6) Soil, water, and related resource conservation and improvement.

(7) Forestry, horticulture, and range management.

(8) Nutritional sciences and promotion.

(9) Farm enhancement, including financial management, input efficiency, and profitability.

(10) Home economics.

(11) Rural human ecology.

(12) Youth development and agricultural education, including 4-H clubs.

(13) Expansion of domestic and international markets for agricultural commodities and products, including agricultural trade barrier identification and analysis.

(14) Information management and technology transfer related to agriculture.

(15) Biotechnology related to agriculture.

(16) The processing, distributing, marketing, and utilization of food and agricultural products.

*Fundamental research* means research that increases knowledge or understanding of the fundamental aspects of phenomena and has the potential for broad application, and has an effect on agriculture, food, nutrition, or the environment.

*Graduate degree* means a Master's or doctoral degree.

*Grant* means the award by the Authorized Departmental Officer of funds to an eligible grantee to assist in meeting the costs of conducting for the benefit of the public, an identified project which is intended and designed to accomplish the purpose of the program as identified in the program solicitation or RFA.

*Grantee* means the organization designated in the grant award document as the responsible legal entity to which a grant is awarded.

*Insular area* means the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau, and the Virgin Islands of the United States.

*Integrated project* means a project incorporating two or three components of the agricultural knowledge system (research, education, and extension) around a problem area or activity.

*Land-grant Institutions* means the 1862 Land-Grant Institutions, 1890 Land-Grant Institutions, and 1994 Land-Grant Institutions.

*Matching or cost sharing* means that portion of allowable project or program

costs not borne by the Federal Government, including the value of in-kind contributions.

*Merit review* means an evaluation of a proposed project or elements of a proposed program whereby the technical quality and relevance to regional or national goals are assessed.

*Merit reviewers* means peers and other individuals with expertise appropriate to conduct merit review of a proposed project.

*Methodology* means the project approach to be followed.

*Mission-linked research* means research on specifically identified agricultural problems which, through a continuum of efforts, provides information and technology that may be transferred to users and may relate to a product, practice, or process.

*National laboratories* include Federal laboratories that are government-owned contractor-operated or government-owned government-operated.

*Non-citizen national of the United States* means a person defined in the Immigration and Nationality Act, 8 U.S.C. 1101(a)(22), who, though not a citizen of the United States, owes permanent allegiance to the United States. When eligibility is claimed solely on the basis of permanent allegiance, documentary evidence from the U.S. Citizenship and Immigration Services as to such eligibility must be made available to CSREES upon request.

*Peer reviewers* means experts or consultants qualified by training and experience to give expert advice on the scientific and technical merit of applications or the relevance of those applications to one or more of the application evaluation criteria. Peer reviewers may be ad hoc or convened as a panel.

*Prior approval* means written approval by an Authorized Departmental Officer evidencing prior consent.

*Private research organization* means any non-governmental corporation, partnership, proprietorship, trust, or other organization.

*Private sector* means all non-public entities, including for-profit and nonprofit commercial and non-commercial entities, and including private or independent educational associations.

*Program announcement (PA)* means a detailed description of the RFA without the associated application package(s). CSREES will not solicit or accept applications in response to a PA.

*Program Officer* means a CSREES individual (often referred to as a National Program Leader) who is responsible for the technical oversight



of the award on behalf of the Department.

*Project* means the particular activity within the scope of the program supported by an award.

*Project Director* or *PD* means the single individual designated by the awardee in the application and approved by the Authorized Departmental Officer who is responsible for the direction and management of the project, also known as a Principal Investigator (PI) for research activities.

*Project period* means the total length of time, as stated in the award document and modifications thereto, if any, during which Federal sponsorship begins and ends.

*Research* means any systematic study directed toward new or fuller knowledge and understanding of the subject studied.

*Scientific peer review* means an evaluation of the technical quality of a proposed project and its relevance to regional or national goals, performed by experts with the scientific knowledge and technical skills to conduct the proposed research work.

*Secretary* means the Secretary of Agriculture and any other officer or employee of the Department to whom the authority involved is delegated.

*State* means any one of the fifty States, the District of Columbia, and the insular areas.

*Third party in-kind contributions* means the value of non-cash contributions of property or services provided by non-Federal third parties, including real property, equipment, supplies and other expendable property, directly benefiting and specifically identifiable to a funded project or program.

*Under Secretary* means the Under Secretary for Research, Education, and Economics.

*United States* means the several States, the District of Columbia, and the insular areas.

*Units of State government* means all State institutions, including the formal divisions of State government (*i.e.*, the official State agencies such as departments of transportation and education), local government agencies (*e.g.*, a county human services office), and including State educational institutions (*e.g.*, public colleges and universities).

#### **§ 3430.3 Deviations.**

Any request by the applicant or awardee for a waiver of or deviation from any provision of this part shall be submitted to the ADO identified in the agency specific requirements. CSREES shall review the request and notify the

applicant/awardee, within 30 calendar days from the date of receipt of the deviation request, whether the request to deviate has been approved. If the deviation request is still under consideration at the end of 30 calendar days, CSREES shall inform the applicant/awardee in writing of the date when the applicant/awardee may expect the decision.

#### **§ 3430.4 Other applicable statutes and regulations.**

Several Federal statutes and regulations apply to Federal assistance applications considered for review and to project grants and cooperative agreements awarded under CSREES Federal assistance programs. These include, but are not limited to:

7 CFR Part 1, subpart A—USDA implementation of the Freedom of Information Act.

7 CFR Part 3—USDA implementation of OMB Circular No. A-129, regarding debt management.

7 CFR Part 15, subpart A—USDA implementation of Title VI of the Civil Rights Act of 1964, as amended.

7 CFR Part 331 and 9 CFR Part 121—USDA implementation of the Agricultural Bioterrorism Protection Act of 2002.

7 CFR Part 3015—USDA Uniform Federal Assistance Regulations, implementing OMB directives (*i.e.*, OMB Circular Nos. A-21, A-87, and A-122, now relocated at 2 CFR Parts 220, 225, and 230) and incorporating provisions of 31 U.S.C. 6301-6308 (formerly the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95-224), as well as general policy requirements applicable to recipients of Departmental financial assistance.

7 CFR Part 3016—USDA implementation of Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

7 CFR Part 3017—USDA implementation of Governmentwide Debarment and Suspension (Nonprocurement).

7 CFR Part 3018—USDA implementation of Restrictions on Lobbying. Imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans.

7 CFR Part 3019—USDA implementation of OMB Circular No. A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other

Nonprofit Organizations (now relocated at 2 CFR part 215).

7 CFR Part 3021—USDA implementation of Governmentwide Requirements for Drug-Free Workplace (Financial Assistance).

7 CFR Part 3052—USDA implementation of OMB Circular No. A-133, Audits of States, Local Governments, and Non-Profit Organizations.

7 CFR Part 3407—CSREES procedures to implement the National Environmental Policy Act of 1969, as amended.

29 U.S.C. 794 (section 504, Rehabilitation Act of 1973) and 7 CFR Part 15b (USDA implementation of statute)—prohibiting discrimination based upon physical or mental handicap in Federally assisted programs.

35 U.S.C. 200 *et seq.*—Bayh-Dole Act, promoting the utilization of inventions arising from federally supported research or development; encouraging maximum participation of small business firms in federally supported research and development efforts; and promoting collaboration between commercial concerns and nonprofit organizations, including universities, while ensuring that the Government obtains sufficient rights in federally supported inventions to meet the needs of the Government and protect the public against nonuse or unreasonable use of inventions (implementing regulations are contained in 37 CFR Part 401).

#### **Subpart B—Pre-award: Solicitation and Application**

##### **§ 3430.11 Competition.**

(a) *Standards for competition.* Except as provided in paragraph (b) of this section, CSREES will enter into grants and cooperative agreements, unless restricted by statute, only after competition.

(b) *Exception.* The CSREES ADO and the designated Agency approving official may make a determination in writing that competition is not deemed appropriate for a particular transaction. Such determination shall be limited to transactions where it can be adequately justified that a noncompetitive award is in the best interest of the Federal Government and necessary to the goals of the program.

##### **§ 3430.12 Requests for applications.**

(a) *General.* For each competitive and noncompetitive non-formula program, CSREES will prepare a program solicitation (also called a request for applications (RFA)), in accordance with the Office of Management and Budget



(OMB) policy directive, 68 FR 37370–37379 (June 23, 2003), establishing a standard format for Federal agency announcements (*i.e.*, program solicitations or RFAs) of funding opportunities under programs that award discretionary grants or cooperative agreements. This policy directive requires the content of the RFA to be organized in a sequential manner beginning with overview information followed by the full text of the announcement and will apply unless superseded by statute or another OMB policy directive. The RFA may include all or a portion of the following items:

- (1) Contact information.
- (2) Directions for interested stakeholders or beneficiaries to submit written comments in a published program solicitation or RFA.
- (3) Catalog of Federal Domestic Assistance (CFDA) number.
- (4) Legislative authority and background information.
- (5) Purpose, priorities, and fund availability.
- (6) Program-specific eligibility requirements.
- (7) Program-specific restrictions on the use of funds, if Applicable.
- (8) Matching requirements, if applicable.
- (9) Acceptable types of applications.
- (10) Types of projects to be given priority consideration, including maximum anticipated awards and maximum project lengths, if applicable.
- (11) Program areas, if applicable.
- (12) Funding restrictions, if applicable.
- (13) Directions for obtaining additional requests for applications and application forms.
- (14) Information about how to obtain application forms and the instructions for completing such forms.
- (15) Instructions and requirements for submitting applications, including submission deadline(s).
- (16) Explanation of the application evaluation Process.
- (17) Specific evaluation criteria used in the review Process.
- (18) Type of Federal assistance awards (*i.e.*, grants and/or cooperative agreements).

(b) *RFA variations.* Where program-specific requirements differ from the requirements established in this part, program solicitations will also address any such variation(s). Variations may occur in the following:

- (1) Award management guidelines.
- (2) Restrictions on the delegation of fiscal responsibility.
- (3) Required approval for changes to project plans.

(4) Expected program outputs and reporting requirements, if applicable.

(5) Applicable Federal statutes and regulations.

(6) Confidential aspects of applications and awards, if applicable.

(7) Regulatory information.

(8) Definitions.

(9) Minimum and maximum budget requests, and whether applications outside of these limits will be returned without further review.

(c) *Program announcements.* Occasionally, CSREES will issue a program announcement (PA) to alert potential applicants and the public about new and ongoing funding opportunities. These PAs may provide tentative due dates and are released without associated application packages. Hence, no applications are solicited under a PA. PAs are announced in the **Federal Register** or on the CSREES Web site.

#### **§ 3430.13 Letter of intent to submit an application.**

(a) *General.* CSREES may request or require that prospective applicants notify program staff of their intent to submit an application, identified as “letter of intent”. If applicable, the request or requirement will be included in the RFA, along with directions for the preparation and submission of the letter of intent, the type of letter of intent, and any relevant deadlines. There are two types of letters of intent: optional and required.

(b) *Optional letter of intent.* Entities interested in submitting an application for a CSREES award should complete and submit a “Letter of Intent to Submit an Application” by the due date specified in the RFA. This does not obligate the applicant in any way, but will provide useful information to CSREES in preparing for application review. Applicants that do not submit a letter of intent by the specified due date are still allowed to submit an application by the application due date specified in the RFA, unless otherwise specified in the RFA.

(c) *Required letter of intent.* Certain programs may require that the prospective applicants submit a letter of intent for specific programs. This type of letter is evaluated by the program staff for suitability to the program and in regard to program priorities, needs, and scope. Invitations to submit a full application will be issued by the Program Officer or his or her representative. For programs requiring a letter of intent, applications submitted without prior approval of the letter of intent by the program staff will be returned without review. Programs

requiring a specific letter of intent will be specified in the RFA.

#### **§ 3430.14 Types of applications; types of award instruments.**

(a) *Types of applications.* The type of application acceptable may vary by funding opportunity. The RFA will stipulate the type of application that may be submitted to CSREES in response to the funding opportunity. Applicants may submit the following types of applications as specified in the RFA.

(1) *New.* An application that is being submitted to the program for the first time.

(2) *Resubmission.* This is a project application that has been submitted for consideration under the same program previously but has not been approved for an award under the program. For competitive programs, this type of application is evaluated in competition with other pending applications in the area to which it is assigned.

Resubmissions are reviewed according to the same evaluation criteria as new applications. In addition, applicants must respond to the previous panel review summaries, unless waived by CSREES.

(3) *Renewal.* An application requesting additional funding for a period subsequent to that provided by a current award. For competitive programs, a renewal application competes with all other applications. Renewal applications must be developed as fully as though the applicant is applying for the first time. Renewal applicants also must have filed a progress report via Current Research Information System (CRIS), unless waived by CSREES.

(4) *Continuation.* A noncompeting application for an additional funding/budget period within a previously approved project.

(5) *Revision.* An application that proposes a change in the Federal Government's financial obligations or contingent liability from an existing obligation; or, any other change in the terms and conditions of the existing award.

(6) *Resubmitted renewal.* This is a project application that has been submitted for consideration under the same program previously. This type of application has also been submitted for renewal under the same program but was not approved. For competitive programs, this type of application is evaluated in competition with other pending applications in the area to which it is assigned. Resubmitted renewal applications are reviewed according to the same evaluation criteria

as new applications. Applicants must respond to the previous panel review summaries and file a progress report via CRIS, unless waived by CSREES.

(b) *Types of award instruments.* The following is a list of corresponding categories of award instruments issued by CSREES.

(1) *Standard.* This is an award instrument by which CSREES agrees to support a specified level of effort for a predetermined project period without the announced intention of providing additional support at a future date.

(2) *Renewal.* This is an award instrument by which CSREES agrees to provide additional funding under a standard award as specified in paragraph (b)(1) of this section for a project period beyond that approved in an original or amended award, provided that the cumulative period does not exceed any statutory time limitation of the award.

(3) *Continuation.* This is an award instrument by which CSREES agrees to support a specified level of effort for a predetermined period of time with a statement of intention to provide additional support at a future date, provided that performance has been satisfactory, appropriations are available for this purpose, and continued support would be in the best interest of the Federal Government and the public.

(4) *Supplemental.* This is an award instrument by which CSREES agrees to provide small amounts of additional funding under a standard, renewal, or continuation award as specified in paragraphs (b)(1), (b)(2), and (b)(3) of this section and may involve a short-term (usually six months or less) extension of the project period beyond that approved in an original or amended award, but in no case may the cumulative period of the project, including short term extensions, exceed any statutory time limitation of the award.

(c) *Obligation of the Federal Government.* Neither the acceptance of any application nor the award of any project shall commit or obligate the United States in any way to make any renewal, supplemental, continuation, or other award with respect to any approved application or portion of an approved application.

#### **§ 3430.15 Stakeholder input.**

Section 103(c)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998 (AREERA) (7 U.S.C. 7613(c)(2)) requires the Secretary to solicit and consider input on each program RFA from persons who conduct agricultural research, education, and extension for use in

formulating future RFAs for competitive programs. CSREES will provide instructions for submission of stakeholder input in the RFA. CSREES will consider any comments received within the specified timeframe in the development of the future RFAs for the program.

#### **§ 3430.16 Eligibility requirements.**

(a) *General.* Program-specific eligibility requirements appear in the subpart applicable to each program and in the RFAs.

(b) *Foreign entities*—(1) *Awards to institutions.* Unless specifically allowed, foreign commercial and non-profit institutions are not considered eligible to apply for and receive CSREES awards.

(2) *Awards to individuals.* Unless otherwise specified, only United States citizens, non-citizen nationals of the United States, and lawful permanent residents of the United States are eligible to apply for and receive CSREES awards.

(c) *Responsibility determination.* In addition to program-specific eligibility requirements, awards will be made only to responsible applicants. Specific management information relating to an applicant shall be submitted on a one-time basis, with updates on an as-needed basis, as part of the responsibility determination prior to an award being made under a specific CSREES program, if such information has not been provided previously under this or another CSREES program. CSREES will provide copies of forms recommended for use in fulfilling these requirements as part of the pre-award process. Although an applicant may be eligible based on its status as one of these entities, there are factors that may exclude an applicant from receiving Federal financial and nonfinancial assistance and benefits under a CSREES program (e.g., debarment or suspension of an individual involved or a determination that an applicant is not responsible based on submitted organizational management information).

#### **§ 3430.17 Content of an application.**

The RFA provides instructions on how to access a funding opportunity. The funding opportunity contains the application package, which includes the forms necessary for completion of an application in response to the RFA, as well as the application instructions. The application instructions document, “CSREES Grants.gov Application Guide: A Guide for Preparation and Submission of CSREES Applications via Grants.gov,” is intended to assist

applicants in the preparation and submission of applications to CSREES. It is also the primary document for use in the preparation of CSREES applications via Grants.gov.

#### **§ 3430.18 Submission of an application.**

(a) *When to submit.* The RFA will provide deadlines for the submission of letters of intent, if requested and required, and applications. CSREES may issue separate RFAs and/or establish separate deadlines for different types of applications, different award instruments, or different topics or phases of the Federal assistance programs. If applications are not received by applicable deadlines, they will not be considered for funding. Exceptions will be considered only when extenuating circumstances exist, as determined by CSREES, and justification and supporting documentation are provided to CSREES.

(b) *What to submit.* The contents of the applicable application package, as well as any other information, are to be submitted by the due date.

(c) *Where to submit.* The RFA will provide addresses for submission of letters of intent, if requested or required, and applications. It also will indicate permissible methods of submission (i.e., electronic, e-mail, hand-delivery, U.S. Postal Service, courier). Conformance with preparation and submission instructions is required and will be strictly enforced unless a deviation had been approved. CSREES may establish additional requirements. CSREES may return without review applications that are not consistent with the RFA instructions.

#### **§ 3430.19 Resubmission of an application.**

(a) *Previously unfunded applications.* (1) Applications that are resubmitted to a program, after being previously submitted but not funded by that program, must include the following information:

(i) The CSREES-assigned proposal number of the previously submitted application.

(ii) Summary of the previous reviewers' comments.

(iii) Explanation of how the previous reviewers' comments or previous panel summary have been addressed in the current application.

(2) Resubmitting an application that has been revised based on previous reviewers' critiques does not guarantee the application will be recommended for funding.

(b) *Previously funded applications.* (1) CSREES competitive programs are generally not designed to support multiple Federal assistance awards

activities that are essentially repetitive in nature. PDs who have had their projects funded previously are discouraged from resubmitting relatively identical applications for further funding. Applications that are sequential continuations or new stages of previously funded projects must compete with first-time applications, and should thoroughly demonstrate how the proposed project expands substantially on previously funded efforts and promotes innovation and creativity beyond the scope of the previously funded project.

(2) An application may be submitted only once to CSREES. The submission of duplicative or substantially similar applications concurrently for review by more than one program will result in the exclusion of the redundant applications from CSREES consideration.

#### **§ 3430.20 Acknowledgment of an application.**

The receipt of all letters of intent and applications will be acknowledged by CSREES. Applicants who do not receive an acknowledgement within a certain number of days (as established in the RFA, e.g., 15 and 30 days) of the submission deadline should contact the program contact. Once the application has been assigned a proposal number by CSREES, that number should be cited on all future correspondence.

#### **§ 3430.21 Confidentiality of applications and awards.**

(a) *General.* Names of submitting institutions and individuals, as well as application contents and evaluations, will be kept confidential, except to those involved in the review process, to the extent permissible by law.

(b) *Identifying confidential and proprietary information in an application.* If an application contains proprietary information that constitutes a trade secret, proprietary commercial or financial information, confidential personal information, or data affecting the national security, it will be treated in confidence to the extent permitted by law, provided that the information is clearly marked by the proposer with the term "confidential and proprietary information" and that the following statement is included at the bottom of the project narrative or any other attachment included in the application that contains such information: "The following pages (specify) contain proprietary information which (name of proposing organization) requests not to be released to persons outside the Government, except for purposes of evaluation."

(c) *Disposition of applications.* By law, the Department is required to make the final decisions as to whether the information is required to be kept in confidence. Information contained in unsuccessful applications will remain the property of the proposer. However, the Department will retain for three years one file copy of each application received; extra copies will be destroyed. Public release of information from any application submitted will be subject to existing legal requirements. Any application that is funded will be considered an integral part of the award and normally will be made available to the public upon request, except for designated proprietary information that is determined by the Department to be proprietary information.

(d) *Submission of proprietary information.* The inclusion of proprietary information is discouraged unless it is necessary for the proper evaluation of the application. If proprietary information is to be included, it should be limited, set apart from other text on a separate page, and keyed to the text by numbers. It should be confined to a few critical technical items that, if disclosed, could jeopardize the obtaining of foreign or domestic patents. Trade secrets, salaries, or other information that could jeopardize commercial competitiveness should be similarly keyed and presented on a separate page. Applications or reports that attempt to restrict dissemination of large amounts of information may be found unacceptable by the Department and constitute grounds for return of the application without further consideration. Without assuming any liability for inadvertent disclosure, the Department will limit dissemination of such information to its employees and, where necessary for the evaluation of the application, to outside reviewers on a confidential basis. An application may be withdrawn at any time prior to the final action thereon.

### **Subpart C—Pre-award: Application Review and Evaluation**

#### **§ 3430.31 Guiding principles.**

The guiding principle for Federal assistance application review and evaluation is to ensure that each proposal is treated in a consistent and fair manner regardless of regional and institutional affiliation. After the evaluation process by the review panel, CSREES, through the program officer, ensures that applicants receive appropriate feedback and comments on their proposals, and processes the awards in as timely a manner as possible.

#### **§ 3430.32 Preliminary application review.**

Prior to technical examination, a preliminary review will be made of all applications for responsiveness to the administrative requirements set forth in the RFA. Applications that do not meet the administrative requirements may be eliminated from program competition. However, CSREES retains the right to conduct discussions with applicants to resolve technical and/or budget issues, as deemed necessary by CSREES.

#### **§ 3430.33 Selection of reviewers.**

(a) *Requirement.* CSREES is responsible for performing a review of applications submitted to CSREES competitive award programs in accordance with section 103(a) of AREERA (7 U.S.C. 7613(a)). Reviews are undertaken to ensure that projects supported by CSREES are of high quality and are consistent with the goals and requirements of the funding program. Applications submitted to CSREES undergo a programmatic evaluation to determine the worthiness of Federal support. The scientific peer review or merit review is performed by peer or merit reviewers and also may entail an assessment by Federal employees.

(b) *CSREES Peer Review System.* The CSREES Application Review Process is accomplished through the use of the CSREES Peer Review System (PRS), a Web-based system which allows reviewers and potential reviewers to update personal information and to complete and submit reviews electronically to CSREES.

(c) *Relevant training and experience.* Reviewers will be selected based upon training and experience in relevant scientific, extension, or education fields taking into account the following factors:

(1) Level of relevant formal scientific, technical education, and extension experience of the individual, as well as the extent to which an individual is engaged in relevant research, education, or extension activities.

(2) Need to include as reviewers experts from various areas of specialization within relevant scientific, education, and extension fields.

(3) Need to include as reviewers other experts (e.g., producers, range or forest managers/operators, and consumers) who can assess relevance of the applications to targeted audiences and to program needs.

(4) Need to include as reviewers experts from a variety of organizational types (e.g., colleges, universities, industry, State and Federal agencies, private profit and nonprofit organizations) and geographic locations.

(5) Need to maintain a balanced composition of reviewers with regard to minority and female representation and an equitable age distribution.

(6) Need to include reviewers who can judge the effective usefulness to producers and the general public of each application.

(d) *Confidentiality.* The identities of reviewers will remain confidential to the maximum extent possible. Therefore, the names of reviewers will not be released to applicants. If it is possible to reveal the names of reviewers in such a way that they cannot be identified with the review of any particular application, this will be done at the end of the fiscal year or as requested. Names of submitting institutions and individuals, as well as application content and peer evaluations, will be kept confidential, except to those involved in the review process, to the extent permitted by law. Reviewers are expected to be in compliance with CSREES Confidentiality Guidelines. Reviewers provide this assurance through PRS.

(e) *Conflicts of interest.* During the evaluation process, extreme care will be taken to prevent any actual or perceived conflicts of interest that may impact review or evaluation. For the purpose of determining conflicts of interest, the academic and administrative autonomy of an institution shall be determined. Reviewers are expected to be in compliance with CSREES Conflict-of-Interest Guidelines. Reviewers provide this assurance through PRS.

#### **§ 3430.34 Evaluation criteria.**

(a) *General.* To ensure any project receiving funds from CSREES is consistent with the broad goals of the funding program, the content of each proposal/application submitted to CSREES will be evaluated based on a pre-determined set of review criteria. It is the responsibility of the Program Officer to develop, adopt, adapt, or otherwise establish the criteria by which proposals are to be evaluated. It may be appropriate for the Program Officer to involve other scientists or stakeholders in the development of criteria, or to extract criteria from legislative authority or appropriations language. The review criteria are described in the RFA and shall not include criteria concerning any cost sharing or matching requirements per section 103(a)(3) of AREERA (7 U.S.C. 7613(a)(3)).

(b) *Guidance for reviewers.* In order that all potential applicants for a program have similar opportunities to compete for funds, all reviewers will receive from the Program Officer a description of the review criteria.

Reviewers are instructed to use those same evaluation criteria, and only those criteria, to judge the merit of the proposals they review.

#### **§ 3430.35 Review of noncompetitive applications.**

(a) *General.* Some projects are directed by either authorizing legislation and/or appropriations to specifically support a designated institution or set of institutions for particular research, education, or extension topics of importance to the nation, a State, or a region. Although these projects may be awarded noncompetitively, these projects or activities are subject to the same application process, award terms and conditions, Federal assistance laws and regulations, reporting and monitoring requirements, and post-award administration and closeout policies and procedures as competitive Federal assistance programs. The only difference is these applications are not subject to a competitive peer or merit review process at the Agency level.

(b) *Requirements.* All noncompetitive applications recommended for funding are required to be reviewed by the program officer and, as required, other Departmental and CSREES officials; and the review documented by the CSREES program officer. For awards recommended for funding at or greater than \$10,000, an independent review and a unit review by program officials are required.

#### **§ 3430.36 Procedures to minimize or eliminate duplication of effort.**

CSREES may implement appropriate business processes to minimize or eliminate the awarding of CSREES Federal assistance that unnecessarily duplicates activities already being sponsored under other awards, including awards made by other Federal agencies. Business processes may include the review of the Current and Pending Support Form; documented CRIS searches prior to award; the conduct of PD workshops, conferences, meetings, and symposia; and agency participation in Federal Government-wide and other committees, taskforces, or groups that seek to solve problems related to agricultural research, education, and extension and other activities delegated to the CSREES Administrator.

#### **§ 3430.37 Feedback to applicants.**

Copies of individual reviews and/or summary reviews, not including the identity of reviewers, will be sent to the applicant PDs after the review process has been completed.

### **Subpart D—Award**

#### **§ 3430.41 Administration.**

(a) *General.* Within the limit of funds available for such purpose, the CSREES ADO shall make Federal assistance awards to those responsible, eligible applicants whose applications are judged most meritorious under the procedures set forth in the RFA. The date specified by the CSREES ADO as the effective date of the award shall be no later than September 30th of the Federal fiscal year in which the project is approved for support and funds are appropriated for such purpose, unless otherwise permitted by law. It should be noted that the project need not be initiated on the award effective date, but as soon thereafter as practical so that project goals may be attained within the funded project period. All funds awarded by CSREES shall be expended solely for the purpose for which the funds are awarded in accordance with the approved application and budget, the regulations, the terms and conditions of the award, the applicable Federal cost principles, and the Department's assistance regulations (e.g., parts 3015, 3016, and 3019 of 7 CFR).

(b) *Notice of Award.* The notice of award document (i.e., Form CSREES–2009, Award Face Sheet) will provide pertinent instructions and information including, at a minimum, the following:

(1) Legal name and address of performing organization or institution to whom the Administrator has awarded a grant or cooperative agreement.

(2) Title of project.

(3) Name(s) and institution(s) of Project Director(s).

(4) Identifying award number assigned by CSREES or the Department.

(5) Project period.

(6) Total amount of CSREES financial assistance approved.

(7) Legal authority(ies) under which the grant or cooperative agreement is awarded.

(8) Appropriate CFDA number.

(9) Approved budget plan (that may be referenced).

(10) Other information or provisions (including the Terms and Conditions) deemed necessary by CSREES to carry out its respective awarding activities or to accomplish the purpose of a particular grant or cooperative agreement.

#### **§ 3430.42 Special award conditions.**

(a) *General.* CSREES may, with respect to any award, impose additional conditions prior to or at the time of any award when, in the judgment of CSREES, such conditions are necessary

to ensure or protect advancement of the approved project, the interests of the public, or the conservation of grant or cooperative agreement funds. CSREES may impose additional requirements if an applicant or recipient has a history of poor performance; is not financially stable; has a management system that does not meet prescribed standards; has not complied with the terms and conditions of a previous award; or is not otherwise responsible.

(b) *Notification of additional requirements.* When CSREES imposes additional requirements, CSREES will notify the recipient in writing as to the following: The nature of the additional requirements; the reason why the additional requirements are being imposed; the nature of the corrective actions needed; the time allowed for completing the corrective actions; and the method for requesting reconsideration of the additional requirements imposed.

(c) *Form CSREES-2009, Award Face Sheet.* These special award conditions, as applicable, will be added as a special provision to the award terms and conditions and identified on the Form CSREES-2009, Award Face Sheet, for the award.

(d) *Removal of additional requirements.* CSREES will promptly remove any additional requirements once the conditions that prompted them have been corrected.

#### Subpart E—Post-Award and Closeout

##### § 3430.51 Payment.

(a) *General.* All payments will be made in advance unless a deviation is accepted (see § 3430.3) or as specified in paragraph (b) of this section. All payments to the awardee shall be made via the U.S. Department of Health and Human Services' Payment Management System (DHHS-PMS), U.S. Department of the Treasury's Automated Standard Application for Payments (ASAP) system, or another electronic funds transfer (EFT) method, except for awards to other Federal agencies. Awardees are expected to request funds via DHHS-PMS, ASAP, or other electronic payment system for reimbursement basis in a timely manner.

(b) *Reimbursement method.* CSREES shall use the reimbursement method if it determines that advance payment is not feasible and that the awardee does not maintain or demonstrate the willingness to maintain written procedures that minimize the time elapsing between the transfer of funds and disbursement by the awardee, and financial management systems that meet

the standards for fund control and accountability.

##### § 3430.52 Cost sharing and matching.

(a) *General.* Awardees may be required to match the Federal funds received under a CSREES award. The required percentage of matching, type of matching (e.g., cash and/or in-kind contributions), sources of match (e.g., non-Federal), and whether CSREES has any authority to waive the match will be specified in the subpart applicable to the specific Federal assistance program, as well as in the RFA.

(b) *Indirect Costs as in-kind matching contributions.* Indirect costs may be claimed under the Federal portion of the award budget or, alternatively, indirect costs may be claimed as a matching contribution (if no indirect costs are requested under the Federal portion of the award budget). However, unless explicitly authorized in the RFA, indirect costs may not be claimed on both the Federal portion of the award budget and as a matching contribution, unless the total claimed on both the Federal portion of the award budget and as a matching contribution does not exceed the maximum allowed indirect costs or the institution's negotiated indirect cost rate, whichever is less. An awardee may split the allocation between the Federal and non-Federal portions of the budget only if the total amount of indirect costs charged to the project does not exceed the maximum allowed indirect costs or the institution's negotiated indirect cost rate, whichever is less. For example, if an awardee's indirect costs are capped at 22 percent pursuant to section 1462(a) of NARETPA (7 U.S.C. 3310(a)), the awardee may request 11 percent of the indirect costs on both the Federal portion of the award and as a matching contribution. Or, the awardee may request any similar percentage that, when combined, does not exceed the maximum indirect cost rate of 22 percent.

##### § 3430.53 Program income.

(a) *General.* CSREES shall apply the standards set forth in this subpart in requiring awardee organizations to account for program income related to projects financed in whole or in part with Federal funds.

(b) *Addition method.* Unless otherwise provided in the authorizing statute, in accordance with the terms and conditions of the award, program income earned during the project period shall be retained by the awardee and shall be added to funds committed to the project by CSREES and the awardee and used to further eligible project or

program objectives. Any specific program deviations will be identified in the individual subparts.

(c) *Award terms and conditions.* Unless the program regulations identified in the individual subpart provide otherwise, awardees shall follow the terms and conditions of the award.

##### § 3430.54 Indirect costs.

Indirect cost rates for grants and cooperative agreements shall be determined in accordance with the applicable assistance regulations and cost principles, unless superseded by another authority. Use of indirect costs as in-kind matching contributions is subject to § 3430.52(b).

##### § 3430.55 Technical reporting.

(a) *Requirement.* All projects supported with Federal funds under this part must be documented in the Current Research Information System (CRIS).

(b) *Initial Documentation in the CRIS Database.* Information collected in the "Work Unit Description" (Form AD-416) and "Work Unit Classification" (Form AD-417) is required upon project initiation for all new awards in CRIS (i.e., prior to award).

(c) *Annual CRIS Reports.* Unless stated differently in the award terms and conditions, an annual "Accomplishments Report" (Form AD-421) is due 90 calendar days after the award's anniversary date (i.e., one year following the month and day on which the project period begins and each year thereafter up until a final report is required). An annual report covers a one-year period. In addition to the Form AD-421, the following information, when applicable, must be submitted to the programmatic contact person identified in block 14 of the Award Face Sheet (Form CSREES-2009): a comparison of actual accomplishments with the goals established for the reporting period (where the output of the project can be expressed readily in numbers, a computation of the cost per unit of output should be considered if the information is considered useful); the reasons for slippage if established goals were not met; and additional pertinent information including, when appropriate, analysis and explanation of cost overruns or unexpectedly high unit costs. The annual report of "Funding and Staff Support" (Form AD-419) is due February 1 of the year subsequent to the Federal fiscal year being reported.

(d) *CRIS Final Report.* The CRIS final report, "Accomplishments Report" (Form AD-421), covers the entire period of performance of the award. The report should encompass progress made

during the entire timeframe of the project instead of covering accomplishments made only during the final reporting segment of the project. In addition to providing the information required under paragraph (c) of this section, the final report must include the following when applicable: a disclosure of any inventions not previously reported that were conceived or first actually reduced to practice during the performance of the work under the award; a written statement on whether or not the awardee elects (or plans to elect) to obtain patent(s) on any such invention; and an identification of equipment purchased with any Federal funds under the award and any subsequent use of such equipment.

(e) *CRIS Web Site Via Internet.* The CRIS database is available to the public on the worldwide web. CRIS project information is available via the Internet CRIS Web site at <http://cris.csrees.usda.gov>. To submit forms electronically, the CRIS forms Web site can be accessed through the CRIS Web site or accessed directly at <http://cwf.uvm.edu/cris>.

(f) *Additional reporting requirements.* Awardees may be required to submit other technical reports or submit the CRIS reports more frequently than annually. Additional requirements for a specific Federal assistance program are described in the applicable subpart after subpart E and are identified in the RFA. The Award Face Sheet (Form CSREES-2009) also will specify these additional reporting requirements as a special provision to the award terms and conditions.

#### **§ 3430.56 Financial reporting.**

(a) *SF-269, Financial Status Report.* Unless stated differently in the award terms and conditions, a final SF-269, Financial Status Report, is due 90 days after the expiration of the award and should be submitted to the Awards Management Branch (AMB) at Awards Management Branch; Office of Extramural Programs, CSREES; U.S. Department of Agriculture; STOP 2271; 1400 Independence Avenue, SW.; Washington, DC 20250-2271. The awardee shall report program outlays and program income on the same accounting basis (*i.e.*, cash or accrual) that it uses in its normal accounting system. When submitting a final SF-269, Financial Status Report, the total matching contribution, if required, should be shown in the report. The final SF-269 must not show any unliquidated obligations. If the awardee still has valid obligations that remain unpaid when the report is due, it shall request an extension of time for submitting the

report pursuant to paragraph (c) of this section; submit a provisional report (showing the unliquidated obligations) by the due date; and submit a final report when all obligations have been liquidated, but no later than the approved extension date. SF-269, Financial Status Reports, must be submitted by all awardees, including Federal agencies and national laboratories.

(b) *Awards with Required Matching.* For awards requiring a matching contribution, an annual SF-269, Financial Status Report, is required and this requirement will be indicated on the Award Face Sheet, Form CSREES-2009, in which case it must be submitted no later than 45 days following the end of the budget or reporting period.

(c) *Requests for an extension to submit a final SF-269, Financial Status Report—(1) Before the due date.* Awardees may request, prior to the end of the 90-day period following the award expiration date, an extension to submit a final SF-269, Financial Status Report. This request should include a provisional report pursuant to paragraph (a) of this section, as well as an anticipated submission date and a justification for the late submission. Subject to § 3430.63 or other statutory or agency policy limitations, funds will remain available for drawdown during this period.

(2) *After the due date.* Requests are considered late when they are submitted after the 90-day period following the award expiration date. Requests to submit a final SF-269, Financial Status Report, will only be considered, up to 30 days after the due date, in extenuating circumstances. This request should include a provisional report pursuant to paragraph (a) of this section, as well as an anticipated submission date, a justification for the late submission, and a justification for the extenuating circumstances. However, such requests are subject to § 3430.63 or any other statutory or agency policy limitations. If an awardee needs to request additional funds, procedures in paragraph (d) of this section apply.

(d) *Overdue SF-269, Financial Status Reports.* Awardees with overdue SF-269, Financial Status Reports, or other required financial reports (as identified in the award terms and conditions), will have their applicable balances at DHHS-PMS, ASAP, or other electronic payment system restricted or placed on “manual review,” which restricts the awardee’s ability to draw funds, thus requiring prior approval from CSREES. If any remaining available balances are needed by the awardee (beyond the 90-

day period following the award expiration date) and the awardee has not requested an extension to submit a final SF-269, Financial Status Report, the awardee will be required to contact AMB to request permission to draw any additional funds and will be required to provide justification and documentation to support the draw. Awardees also will need to comply with procedures in paragraph (c) of this section. AMB will approve these draw requests only in extenuating circumstances, as determined by CSREES.

(e) *SF-272, Federal Cash Transactions Report.* Awardees receiving electronic payments through DHHS-PMS are required to submit their SF-272, Federal Cash Transactions Report, via the DHHS-PMS by the specified dates. Failure to submit this quarterly report by the due date may result in funds being restricted by DHHS-PMS. Awardees not receiving payments through DHHS-PMS may be exempt from this reporting requirement.

(f) *Additional reporting requirements.* CSREES may require additional financial reporting requirements as follows: CSREES may require forecasts of Federal cash requirements in the “Remarks” section of the report; and when practical and deemed necessary, CSREES may require awardees to report in the “Remarks” section the amount of cash advances received in excess of three days (*i.e.*, short narrative with explanations of actions taken to reduce the excess balances). When CSREES needs additional information or more frequent reports, a special provision will be added to the award terms and conditions and identified on the Form CSREES-2009, Award Face Sheet. Should CSREES determine that an awardee’s accounting system is inadequate, additional pertinent information to further monitor awards may be requested from the awardee until such time as the system is brought up to standard, as determined by CSREES. This additional reporting requirement will be required via a special provision to the award terms and conditions and identified on the Form CSREES-2009, Award Face Sheet.

#### **§ 3430.57 Project meetings.**

In addition to reviewing (and monitoring the status of) progress and final technical reports and financial reports, CSREES Program Officers may use regular and periodic conference calls to monitor the awardee’s performance as well as PD conferences, workshops, meetings, and symposia to not only monitor the awards, but to facilitate communication and the sharing of project results. These

opportunities also serve to eliminate or minimize CSREES funding unneeded duplicative project activities. Required attendance at these conference calls, conferences, workshops, meetings, and symposia will be identified in the RFA and the awardee should develop a proposal accordingly.

#### **§ 3430.58 Prior approvals.**

(a) *Subcontracts.* No more than 50 percent of the award may be subcontracted to other parties without prior written approval of the ADO except contracts to other Federal agencies. Any subcontract awarded to a Federal agency under an award must have prior written approval of the ADO. To request approval, a justification for the proposed subcontractual arrangements, a performance statement, and a detailed budget for the subcontract must be submitted to the ADO.

(b) *No-cost extensions of time—(1) General.* Awardees may initiate a one-time no-cost extension of the expiration date of the award of up to 12 months unless one or more of the following conditions apply: the terms and conditions of the award prohibit the extension; the extension requires additional Federal funds; and the extension involves any change in the approved objectives or scope of the project. For the first no-cost extension, the awardee must notify CSREES in writing with the supporting reasons and revised expiration date at least 10 days before the expiration date specified in the award.

(2) *Additional requests for no-cost extensions of time before expiration date.* When more than one no-cost extension of time or an extension of more than 12 months is required, the extension(s) must be approved in writing by the ADO. The awardee should prepare and submit a written request (which must be received no later than 10 days prior to the expiration date of the award) to the ADO. The request must contain, at a minimum, the following information: the length of the additional time required to complete the project objectives and a justification for the extension; a summary of the progress to date; an estimate of the funds expected to remain unobligated on the scheduled expiration date; a projected timetable to complete the portion(s) of the project for which the extension is being requested; and signature of the AR and the PD.

(3) *Requests for no-cost extensions of time after expiration date.* CSREES may consider and approve requests for no-cost extensions of time up to 120 days following the expiration of the award.

These will be approved only for extenuating circumstances, as determined by CSREES. The awardee's AR must submit the requirements identified under paragraph (b)(2) of this section as well as an "extenuating circumstance" justification and a description of the actions taken by the awardee to minimize these requests in the future.

(4) *Other requirements.* No-cost extensions of time may not be exercised merely for the purpose of using unobligated balances. All extensions are subject to any statutory term limitations as well as any expiring appropriation limitations under § 3430.63.

#### **§ 3430.59 Review of disallowed costs.**

(a) *Notice.* If the CSREES Office of Extramural Programs (OEP) determines that there is a basis for disallowing a cost, CSREES OEP shall provide the awardee written notice of its intent to disallow the cost. The written notice shall state the amount of the cost and the factual and legal basis for disallowing it.

(b) *Awardee response.* Within 60 days of receiving written notice of CSREES OEP's intent to disallow the cost, the awardee may respond with written evidence and arguments to show the cost is allowable, or that CSREES, for equitable, practical, or other reasons, shall not recover all or part of the amount, or that the recovery should be made in installments. The 60-day time period may be extended for an additional 30 days upon written request by the awardee; however, such request for an extension of time must be made before the expiration of the 60-day time period specified in this paragraph. An extension of time will be granted only in extenuating circumstances.

(c) *Decision.* Within 60 days of receiving the awardee's written response to the notice of intent to disallow the cost, CSREES OEP shall issue a management decision stating whether or not the cost has been disallowed, the reasons for the decision, and the method of appeal that has been provided under this section. If the awardee does not respond to the written notice under paragraph (a) of this section within the time frame specified in paragraph (b) of this section, CSREES OEP shall issue a management decision on the basis of the information available to it. The management decision shall constitute the final action with respect to whether the cost is allowed or disallowed. In the case of a questioned cost identified in the context of an audit subject to 7 CFR part 3052, the management decision will constitute the

management decision under 7 CFR 3052.405(a).

(d) *Demand for payment.* If the management decision under paragraph (c) of this section constitutes a finding that the cost is disallowed and, therefore, that a debt is owed to the Government, CSREES OEP shall provide the required demand and notice pursuant to 7 CFR 3.11.

(e) *Review process.* Within 60 days of receiving the demand and notice referred to in paragraph (d) of this section, the awardee may submit a written request to the CSREES OEP Deputy Administrator for a review of the final management decision that the debt exists and the amount of the debt. Within 60 days of receiving the written request for a review, the CSREES OEP Deputy Administrator (or other senior CSREES official designated by the CSREES OEP Deputy Administrator) will issue a final decision regarding the debt. Review by the CSREES OEP Deputy Administrator or designee constitutes, and will be in accordance with, the administrative review procedures provided for debts under 7 CFR part 3, subpart F.

#### **§ 3430.60 Suspension, termination, and withholding of support.**

(a) *General.* If an awardee has failed to materially comply with the terms and conditions of the award, CSREES may take certain enforcement actions, including, but not limited to, suspending the award pending corrective action, terminating the award for cause, and withholding of support.

(b) *Suspension.* CSREES generally will suspend (rather than immediately terminate) an award to allow the awardee an opportunity to take appropriate corrective action before CSREES makes a termination decision. CSREES may decide to terminate the award if the awardee does not take appropriate corrective action during the period of suspension. CSREES may terminate, without first suspending, the award if the deficiency is so serious as to warrant immediate termination. Termination for cause may be appealed under the CSREES award appeals procedures specified in § 3430.62.

(c) *Termination.* An award also may be terminated, partially or wholly, by the awardee or by CSREES with the consent of the awardee. If the awardee decides to terminate a portion of the award, CSREES may determine that the remaining portion of the award will not accomplish the purposes for which the award was originally made. In any such case, CSREES will advise the awardee of the possibility of termination of the entire award and allow the awardee to



withdraw its termination request. If the awardee does not withdraw its request for partial termination, CSREES may initiate procedures to terminate the entire award for cause.

(d) *Withholding of support.*

Withholding of support is a decision not to make a non-competing continuation award within the current competitive segment. Support may be withheld for one or more of the following reasons: Adequate Federal funds are not available to support the project; an awardee failed to show satisfactory progress in achieving the objectives of the project; an awardee failed to meet the terms and conditions of a previous award; or for whatever reason, continued funding would not be in the best interests of the Federal Government. If a non-competing continuation award is denied (withheld) because the awardee failed to comply with the terms and conditions of a previous award, the awardee may appeal that determination under § 3430.62.

**§ 3430.61 Debt collection.**

The collection of debts owed to CSREES by awardees, including those resulting from cost disallowances, recovery of funds, unobligated balances, or other circumstances, are subject to the Department's debt collection procedures as set forth in 7 CFR part 3, and, with respect to cost disallowances, § 3430.59.

**§ 3430.62 Award appeals procedures.**

(a) *General.* CSREES permits awardees to appeal certain post-award adverse administrative decisions made by CSREES. These include: termination, in whole or in part, of an award for failure of the awardee to carry out its approved project in accordance with the applicable law and the terms and conditions of award or for failure of the awardee otherwise to comply with any law, regulation, assurance, term, or condition applicable to the award; denial (withholding) of a non-competing continuation award for failure to comply with the terms of a previous award; and determination that an award is void (*i.e.*, a decision that an award is invalid because it was not authorized by statute or regulation or because it was fraudulently obtained). Appeals of determinations regarding the allowability of costs are subject to the procedures in § 3430.59.

(b) *Appeal Procedures.* The formal notification of an adverse determination will contain a statement of the awardee's appeal rights. As the first level in appealing an adverse determination, the awardee must submit

a request for review to the CSREES official specified in the notification, detailing the nature of the disagreement with the adverse determination and providing supporting documents in accordance with the procedures contained in the notification. The awardee's request to CSREES for review must be received within 60 days after receipt of the written notification of the adverse determination; however, an extension may be granted if the awardee can show good cause why an extension is warranted.

(c) *Decision.* If the CSREES decision on the appeal is adverse to the awardee or if an awardee's request for review is rejected, the awardee then has the option of submitting a request to the CSREES OEP Deputy Administrator for further review. The decision of the CSREES OEP Deputy Administrator is considered final.

**§ 3430.63 Expiring appropriations.**

(a) *CSREES awards supported with agency appropriations.* Most CSREES awards are supported with annual appropriations. On September 30th of the 5th fiscal year after the period of availability for obligation ends, the funds for these appropriations accounts expire per 31 U.S.C. 1552 and the account is closed, unless otherwise specified by law. Funds that have not been drawn through DHHS-PMS, ASAP, or other electronic payment system by the awardee or disbursed through any other system or method by August 31st of that fiscal year are subject to be returned to the U.S. Department of the Treasury after that date. The August 31st requirement also applies to awards with a 90-day period concluding on a date after August 31st of that fifth year. Appropriations cannot be restored after expiration of the accounts. More specific instructions are provided in the CSREES award terms and conditions.

(b) *CSREES awards supported with funds from other Federal agencies (reimbursable funds).* CSREES may require that all draws and reimbursements for awards supported with reimbursable funds (from other Federal agencies) be completed prior to June 30th of the 5th fiscal year after the period of availability for obligation ends to allow for the proper billing, collection, and close-out of the associated interagency agreement before the appropriations expire. The June 30th requirement also applies to awards with a 90-day period concluding on a date after June 30th of that fifth year. Appropriations cannot be restored after expiration of the accounts. More

specific instructions are provided in the CSREES award terms and conditions.

**Subpart F—Specialty Crop Research Initiative**

**§ 3430.200 Applicability of regulations.**

The regulations in this subpart apply to the program authorized under section 412 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7632).

**§ 3430.201 Purpose.**

(a) *Focus areas.* The purpose of this program is to address the critical needs of the specialty crop industry by developing and disseminating science-based tools to address needs of specific crops and their regions, including the following five focus areas:

(1) Research in plant breeding, genetics, and genomics to improve crop characteristics, such as—

(i) Product, taste, quality, and appearance;

(ii) Environmental responses and tolerances;

(iii) Nutrient management, including plant nutrient uptake efficiency;

(iv) Pest and disease management, including resistance to pests and diseases resulting in reduced application management strategies; and

(v) Enhanced phytonutrient content.

(2) Efforts to identify and address threats from pests and diseases, including threats to specialty crop pollinators.

(3) Efforts to improve production efficiency, productivity, and profitability over the long term (including specialty crop policy and marketing).

(4) New innovations and technology, including improved mechanization and technologies that delay or inhibit ripening.

(5) Methods to prevent, detect, monitor, control, and respond to potential food safety hazards in the production and processing of specialty crops, including fresh produce.

(b) *Other.* CSREES will award research and extension, including integrated, grants to eligible institutions listed in § 3430.203. In addition to the focus areas identified in this section, CSREES may include additional activities or focus areas that will further address the critical needs of the specialty crop industry. Some of these activities or focus areas may be identified by stakeholder groups or by CSREES in response to emerging critical needs of the specialty crop industry.

**§ 3430.202 Definitions.**

The definitions applicable to the program under this subpart include:

*Integrated project* means a project that incorporates the research and extension components of the agricultural knowledge system around a problem area or activity.

*Specialty crop* means fruits and vegetables, tree nuts, dried fruits, and horticulture and nursery crops (including floriculture).

*Trans-disciplinary* means a multi-discipline approach that brings biological and physical scientists together with economists and social scientists to address challenges in a holistic manner.

#### **§ 3430.203 Eligibility.**

Eligible applicants for the grant program implemented under this subpart include: Federal agencies, national laboratories; colleges and universities (offering associate's or higher degrees); research institutions and organizations; private organizations or corporations; State agricultural experiment stations; individuals; and groups consisting of 2 or more entities identified in this sentence.

#### **§ 3430.204 Project types and priorities.**

For each RFA, CSREES may develop and include the appropriate project types and focus areas (in addition to the five focus areas identified in § 3430.201) based on the critical needs of the specialty crop industry as identified through stakeholder input and deemed appropriate by CSREES. Of the funds made available each fiscal year, not less than 10 percent of these funds shall be allocated for each of the five focus areas identified in § 3430.201. In making awards for this program, CSREES will give higher priority to projects that are multistate, multi-institutional, and multidisciplinary; and include explicit mechanisms to communicate the results to producers and the public.

#### **§ 3430.205 Funding restrictions.**

(a) *Prohibition against construction.* Funds made available under this subpart shall not be used for the construction of a new building or facility or the acquisition, expansion, remodeling, or alteration of an existing facility (including site grading and improvement, and architect fees).

(b) *Indirect costs.* Subject to § 3430.54, indirect costs are allowable.

#### **§ 3430.206 Matching requirements.**

(a) *Requirement.* Grantees are required to provide funds or in-kind support from non-Federal sources in an amount that is at least equal to the amount provided by the Federal government. The matching contribution must be provided from non-Federal

sources except when authorized by statute. The matching requirements under this subpart cannot be waived.

(b) *Indirect costs.* Use of indirect costs as in-kind matching contributions is subject to § 3430.52.

#### **§ 3430.207 Other considerations.**

The term of a grant under this subpart shall not exceed 10 years.

Signed at Washington, DC, on August 28, 2009.

**Colien Hefferan,**

*Administrator, Cooperative State Research, Education, and Extension Service.*

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**BILLING CODE 3410-22-P**

## **SMALL BUSINESS ADMINISTRATION**

### **13 CFR Parts 120, 121, 124, 126 and 134**

**RIN 3245-AF64**

#### **Agency Titling Procedure Revision; Nomenclature Changes**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice of correcting amendments.

**SUMMARY:** The U.S. Small Business Administration (SBA) is amending its regulations to correct omissions and errors in its final rule titled Agency Titling Procedure Revision; Nomenclature Changes which appeared in the **Federal Register** on August 30, 2007. In the Agency Titling Procedure Revision rule SBA amended its regulations to change the titles of certain SBA officials to conform to titles that are commonly used across the Federal Government. However, several references to SBA titles were inadvertently excluded in the original rule and there were some name changes that were not properly made. This notice will correct the improperly made changes and include the omitted title changes.

**DATES: Effective Dates:** These corrections are effective on September 4, 2009.

**FOR FURTHER INFORMATION CONTACT:** Napoleon Avery, Chief Human Capital Officer, Office of Human Capital Management, Office of Management and Administration, Small Business Administration, 409 3rd Street, SW., Washington, DC 20416. Tel: (202) 205-6780 and e-mail: [napoleon.avery@sba.gov](mailto:napoleon.avery@sba.gov).

**SUPPLEMENTARY INFORMATION:** The SBA published a final rule in the **Federal**

**Register** on August 30, 2007, (72 FR 50037), which amended its regulations to reflect the new titles of certain SBA officials. The new titles conform SBA's management titles with those commonly used across the Federal Government. No changes were made to the responsibilities, reporting relationship, or other regulatory duties of the SBA officials whose titles are changed.

However, several SBA titles were inadvertently left unchanged. In addition, several title changes were improperly made and need to be corrected. This Notice of Correction will incorporate these additional title changes and will correct the improperly made changes.

#### **Savings Provision**

This Notice of Correcting Amendment shall constitute notice that all references to the old titles cited in SBA rules affected by this Notice in any documents, statements, or other communications, in any form or media, and whether made before, on, or after the effective date of this Notice, shall be deemed to be references to the new titles. Any actions undertaken in the name of or on behalf of these SBA officials under the old title, whether taken before, on, or after the effective date of this Notice, shall be deemed to have been taken in the name of the SBA official under the new title.

#### **List of Subjects**

##### **13 CFR Part 120**

Community development, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

##### **13 CFR Part 121**

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Loan programs—business, Reporting and recordkeeping requirements, Small business.

##### **13 CFR Part 124**

Administrative practice and procedure, Government procurement, Minority businesses, Reporting and recordkeeping requirements, Technical assistance.

##### **13 CFR Part 126**

Administrative practice and procedure, Government procurement, Penalties, Reporting and recordkeeping requirements, Small businesses.

##### **13 CFR Part 134**

Administrative practice and procedure, Claims, Organization and functions (Government agencies).