

# Late Applications, Denials and/or Appeal Procedures

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## PURPOSE

This document provides information on the U.S. Department of Agriculture (USDA) Agricultural Marketing Service's (AMS) policies related to the submission of late and/or nonresponsive grant applications. These policies apply to grant applications that are:

1. submitted late, nonresponsive, and/or rejected during the initial qualification screening,
2. not selected for an award during the administrative review, or
3. dissatisfied with a post-award administrative decision.

Incomplete applications or unjustified dissatisfaction with a post award decision does not constitute grounds for an appeal.

## POLICY REGARDING LATE APPLICATIONS

Grant applications must be submitted on time, through the means published in the corresponding Request for Applications (RFA). The RFA cover page lists the application due date and time. The *Program Solicitation Information* and *Submission Date and Time* section provide additional information. AMS encourages applicants to submit their applications well in advance of the posted due date.

AMS will NOT consider applications submitted after the specified due date unless the applicant provides documentation of an extenuating circumstance that prevented their timely submission of the grant application. Extenuating circumstances are defined as a catastrophic incident or a technical issue related to government systems (e.g., a Grants.gov outage or malfunction).

**Catastrophic incident**, as defined by 6 U.S.C. 311(3), means any natural disaster, an act of terrorism, or other man-made disasters that results in extraordinary levels of casualties or damage or disruption severely affecting the population (including mass evacuations), infrastructure, environment, economy, national morale, or government functions in an area.

**Technical issue**, in a case where there is a technical issue with Grants.gov, the applicant has to obtain a Grants.gov helpdesk case number by contacting Grants.gov's Applicant Support group and work with the group to validate the technical issue that prevented the timely submission of the grant application.

### WHAT IS A LATE APPLICATION?

A late application is any grant application submitted or resubmitted after the application due date and time listed in the RFA.

### HOW DOES AMS DETERMINE IF AN APPLICATION IS LATE?

Grants.gov attaches a date and time stamp to the application when it is electronically submitted.

Most AMS grant programs have a deadline of 11:59 p.m. Eastern Time. An application is considered on time when submitted at or before 11:59 p.m. Eastern Time on the specified closing date. It is late when submitted at or after 12:00 (midnight) Eastern Time on the day following the specified closing date.

### WHEN WILL LATE APPLICATION SUBMISSIONS BE CONSIDERED FOR COMPETITIVE REVIEW?

AMS will consider grant applications that were not submitted by the deadline on a case-by-case basis. AMS will only accept late applications if the applicant has documented evidence of extenuating circumstances or technical issues that have prevented the timely submission of an

application. Documentation could include screenshots or emails from helpdesks documenting system access problems.

## REQUESTING A LATE APPLICATION SUBMISSION

After the grant application submission due date has passed, applicants should contact the email address listed under the *Agency Contacts* section of the RFA to request a late application submission. All requests must be submitted by letter and signed by the organization representative.

***Applicants must provide documentation to substantiate their extenuating circumstance claim.***

The applicant letter must include the reason for missing the deadline, and demonstrable evidence of an extenuating circumstance. Once AMS receives the documentation, AMS will follow its appeal procedures and inform applicants of its decision. If an applicant does not submit documentation to substantiate their claim, AMS will not consider the request.

## WINDOW OF CONSIDERATION FOR LATE APPLICATION SUBMISSIONS

Requests to consider late grant applications for a competitively reviewed RFA must be received by AMS within **2 weeks (14 calendar days)** of the published application due date to be considered for the applicable competitive review under this late policy. Requests received after that time will not be considered.

## TECHNICAL ISSUES WITH GRANTS.GOV

Applicants must follow the directions in the RFA (*Grants.gov Application Submission and Receipt Procedures and Requirements* section) to ensure the timely submission of a grant application. AMS will investigate reports of technical issues with Grants.gov on a case-by-case basis once it confirms a documented extenuating circumstance.

**NOTE:** Problems with computer systems at the applicant organization, Adobe compatibility settings issues, failure to follow instructions in the RFA, or failure to complete required registrations (e.g., Grants.gov, Sams.gov, UEI Number, etc.) by the submission deadline are NOT considered government system issues and do not constitute grounds for an appeal. The RFA explains the time required to complete these registration requirements.

## WILL AMS GRANT ADVANCE PERMISSION FOR LATE SUBMISSION?

No. AMS will not grant advanced permission to submit an application after the application due date.

## POLICY REGARDING NONRESPONSIVE OR INCOMPLETE APPLICATIONS

Grant applications must include all required documents and information requested in the corresponding Request for Applications (RFA). Required documents and information are listed in the *Application and Submission Information* section of each RFA. When an applicant submits

duplicate applications before the application due date, AMS will accept the last validated application that is electronically submitted through Grants.gov as the final submission.

AMS will decline to consider any grant application submitted for competitive review and considered nonresponsive to the requirements in the RFA unless the applicant justifies how the application's contents and documents meet the RFA requirements. AMS will not accept required documents or attachments after the application deadline.

## WHAT IS A NONRESPONSIVE APPLICATION?

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Grant applications are considered nonresponsive when they do not meet the requirements listed in the RFA, including, but not limited to: aligning with the legislative purpose of the program, being an eligible applicant, submitting the application to the correct grant program; and/or providing all required documents and information. Incomplete applications are also considered nonresponsive due to missing information, documents, or attachments.

## HOW IS AN APPLICATION DETERMINED TO BE NONRESPONSIVE?

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AMS performs an initial qualification screening of all applications submitted by the application deadline to determine whether the content responds to the RFA. This includes verifying that all required documents and attachments in the *Application and Submission Information* section of the RFA are part of the application package, and that the application was submitted to the correct grant program.

## HOW CAN A NONRESPONSIVE APPLICATION BE CONSIDERED FOR COMPETITIVE REVIEW?

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AMS will consider grant applications that were determined nonresponsive due to extenuating circumstances on a case-by-case basis depending on the applicant's explanation and documentation. *Extenuating circumstances* are catastrophic incidents as defined by [6 U.S.C. 311\(3\)](#) or validated technical issues on the side of the government which prevented applicants from applying by the posted due date (e.g., a Grants.gov outage or malfunction).

**NOTE:** Problems with computer systems at the applicant organization, Adobe compatibility settings issues, failure to follow instructions in the RFA, or failure to attach documents to the application package correctly are not considered system issues.

## HOW TO SUBMIT A REQUEST FOR RECONSIDERATION OF AN APPLICATION

If an applicant receives notification that their grant application will not be considered for competitive review and they would like to that decision to be reconsidered, the applicant should contact the email address listed in the *Agency Contacts* section of the RFA. All requests must be submitted in writing and include the information below:

- Grant Program Name

- Application Number
- Grants.gov Number
- Applicant Point of Contact Responsible for the Appeal
- Project Title
- Justification for reconsideration
- Documentation substantiating applicant’s claim of an extenuating circumstance

Once AMS receives the request and associated documentation, AMS will follow its review procedures. The applicant will be informed of the results of the review. If documentation is not submitted that substantiates the applicant’s claim, AMS will not consider the request.

## **WINDOW OF CONSIDERATION FOR RECONSIDERATION OF AN APPLICATION**

Requests to reconsider grant applications deemed nonresponsive to the RFA must be received by AMS within **2 weeks (14 calendar days)** of the receipt of the application’s declination letter to be reconsidered for the applicable competitive review under this nonresponsive policy. If documentation is submitted that substantiates applicant’s claim after the deadline above, AMS will not consider the request.

### **CAN AN APPLICATION RECEIVE ADVANCE PERMISSION TO BE NONRESPONSIVE TO THE RFA?**

No. AMS will not grant advanced permission to submit an application that is nonresponsive to the RFA.

## **POLICY REGARDING APPEAL PROCEDURES**

### **HOW CAN AN APPLICANT APPEAL A DECISION TO REMOVE THEIR APPLICATION FROM CONSIDERATION?**

If AMS rejects an applicant’s grant application during the initial qualification screening or the administrative review, the applicant may file an appeal for reconsideration. To file an appeal, the applicant should contact the email address listed under “Agency Contact” section of the RFA and provide additional documentation to be considered.

#### **1) *Late, Non-Responsive, or Rejected application During the initial Qualification Screening***

- a) To file an appeal, applicants must email AMS within 14 calendar days of the application deadline or receipt of the written rejection email, as demonstrated through the time stamp on the email. AMS strictly enforces this deadline and will not grant extensions.

The request must contain:

- i) Grant Program name,

- ii) Application number,
  - iii) Grants.gov number,
  - iv) Their name and email, or the name and email of the person responsible for the appeal,
  - v) The project title,
  - vi) A detailed statement describing their reason for filing an appeal, and
  - vii) Fact-based statements and reasoning to support their appeal.
- b) The Team Lead will review the information and request additional information from the applicant and consult with Branch Chief and/or Division Director.
  - c) AMS will send a written decision to the applicant within 15 business days. The decision will either grant or deny the appeal.
  - d) The Branch Chief or Division Director decision serves as the final agency decision.

If AMS approves the appeal to submit an application, the approval does not guarantee a funding award. The approval only indicates that AMS will consider the application for review.

**2) *Not Selected for an Award During the Administrative Review***

- a) If AMS declines an applicant's award, the applicant may request an informal discussion to clarify the declination decision with the Team Lead or Branch Chief.
- b) If the applicant is dissatisfied with AMS' explanation, the applicant may appeal by emailing a letter addressed to the Division Director no later than 14 calendar days from after the declination notice. AMS strictly enforces this deadline and will not grant extensions. The letter must:
  - i) Include a copy of the adverse determination,
  - ii) Identify the issue(s) in dispute,
  - iii) Contain a full statement of the applicant's position with respect to their issue(s), including pertinent facts, supportive reasoning, and documentation to support their claim.

AMS will **not** consider any new application information that would not have been available at the time the application was submitted.

- c) The Director will review the appeal information and communicate the decision within 15 business days of receiving the appeal letter. If the appellant believes the Division made a substantive or procedural error in the decision, the appellant may submit a second appeal request for further review by the Deputy Administrator. The applicant must submit additional facts or evidence to support their position and justify the request for additional review.
- d) If the same appeal is submitted twice without additional facts or support evidence, AMS will deny the repeated appeal.
- e) The Deputy Administrator or designee will provide the final review regarding the appeal

and communicate the decision within 15 business days of receiving the appeal package. The Deputy administrator serve as the final agency decision per [2 CFR § 415.1 \(c\)](#).

## **HOW CAN AN AMS GRANT RECIPIENT APPEAL A DECISION ABOUT THEIR GRANT AWARD?**

### ***1) Dissatisfied with a Post Award Decision***

If a grant recipient wants to appeal an AMS decision, such as disallowing costs, the grant recipient should contact the AMS contact identified in their Notice of Award under block 9 and 10. The steps below describe the procedures for an appeal.

- a) AMS allows recipients to appeal certain post-award adverse administrative decisions made by AMS. These decisions could include the withholding of payments, partial suspension of an award, and imposed special awards conditions. These decisions typically result from a recipient's failure to carry out the approved project in accordance with the applicable law and the terms and conditions of the award. AMS may also take action if an applicant's actions otherwise fail to comply with the award requirements.
- b) A grant recipient who is dissatisfied with a post-award decision may request a clarifying discussion with the Team Lead. If the recipient believes AMS made a substantive or procedural error in its post-award decision, the recipient may appeal the determination for further review by the Branch Chief. The appeal letter must:
  - i) Explain the decision or action they are appealing,
  - ii) Describe what happened, and
  - iii) Include any documentation that substantiates the appeal.
- c) The Branch Chief will review and/or consult with the Division Director to review the matter. The Branch Chief or Division Director will communicate the decision within 30 business days. The Branch Chief or the Division Director decision is final and may not be appealed further.