



Farmers Market Promotion Program

General Terms and Conditions

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A. APPLICABLE REGULATIONS

1. **Administrative Provisions.** FMPP grant awards, and subawards at any level under the FMPP, are governed to the extent applicable by the Code of Federal Regulation (CFR) provisions 2 CFR Part 200, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.”
2. **Federal Cost Principles.** Allowable costs will be determined by the Agricultural Marketing Service (AMS) in accordance with the FMPP legislation, the purpose of the award as detailed in the application, the terms and conditions of award as contained herein, and the Federal cost principles as listed in the Code of Federal Regulation (CFR) provisions 2 CFR Part 200, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.”

A complete list of current OMB circulars can be found at [White House Web Site](#):

3. **Federal Acquisition Regulations (48 CFR Part. 31.2)**, Principles for determining costs with profit making firms, “Contracts with Commercial Organizations.”

Procurement Procedures. All FMPP procurements are subject to the regulations for procurement actions totaling less than \$150,000 and must follow the Federal Acquisition Regulations (FAR), 48 CFR Part 13, Simplified Acquisition Procedures.

The Electronic CFR is accessible electronically at <http://www.ecfr.gov/>.

B. DEFINITIONS

1. Federal Agency – Farmers’ Market Promotion Program (FMPP), Agricultural Marketing Service (AMS), United States Department of Agriculture (USDA).
2. **FMPP Program Manager** – the individual, acting within the scope of delegated authority, who is responsible for executing and administering awards on behalf of the U.S. Department of Agriculture. The program manager’s address, telephone, and facsimile numbers are as follows:

Carmen Humphrey, Branch Chief
Farmers’ Market Promotion Program
Agricultural Marketing Service, USDA
Room 4534 – South, STOP 0269
1400 Independence Avenue, SW
Washington, DC 20250-0269
Telephone: (202) 720-0933
Facsimile: (202) 690-4152

3. **Equipment** - tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost that equals or exceeds \$5,000 per unit.
4. **General Purpose Equipment** - equipment, which is not limited to research, scientific or other technical activities. Examples include office equipment and furnishings, telephone networks, information technology equipment and systems, reproduction and printing equipment.
5. **Grant** – an award of financial assistance in the form of money, by the Federal Government to an eligible recipient.
6. **Project Contact** - the individual who is authorized to commit the grantee’s time and other resources to the project, to commit the grantee to comply with the terms and conditions of the award instrument including those set out herein, and to otherwise act for or on behalf of the grantee.
7. **Recipient** - the entity/organization to which an FMPP grant is awarded. The recipient is accountable for the use of the funds provided. The grantee assumes the legal responsibility even if only a part of the grantee’s organization is designated in the FMPP grant award document.
8. **Special Purpose Equipment** – equipment, which is used only for research, scientific, or other technical activities used solely to enhance the competitiveness of eligible specialty crops and benefit the specialty crop industry.
9. **Subgrant/Contract** – an award of financial assistance in the form of money, or property in lieu of money, made under a grant/contract by a recipient to an eligible subrecipient. A subgrant is awarded by the grantee to further the completion of the awarded FMPP project, as described in the FMPP project plan and included in the approved project budget.
10. **Subrecipient** - the organization or other legal entity to which a subgrant/contract is awarded by a grantee. The subgrantee is accountable to the grantee for the use of the FMPP funds provided. The grantee, in turn, is accountable to AMS for the use of the FMPP funds awarded to it.
11. **Supplies** - all tangible personal property other than equipment.
12. **Unobligated balance** - the portion of funds authorized by the Federal Agency that has not been obligated by the grantee and is determined by deducting the cumulative obligations from the cumulative funds authorized.

13. **Building and Facilities** - means any permanent structure that is designed or intended for support, enclosure, shelter or protection of person, animals or property having a permanent roof that is supported by columns or walls.

C. ASSURANCES AND CERTIFICATIONS

1. **Assurances.** As a condition of this grant award, the recipient assures that it is in compliance and will continue to comply in the course of grant performance with all applicable laws, regulations, Executive Orders, and other generally applicable requirements, as described in Section A “Applicable Regulations”, which hereby are incorporated in this grant award by reference, and such other provisions as are specified herein.
2. **Certifications.** In accepting the FMPP grant award, the recipient also specifically certifies that it:
 - a. Has the legal authority to apply for Federal assistance and the administrative, programmatic and financial capability (including funds sufficient to pay the non-Federal share of the project cost) to ensure proper planning, management and completion of the project described in the application.
 - b. Will give the Federal Agency, the Comptroller General of the United States and, if applicable, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; any information or data derived from an FMPP-funded project, along with any report developed from this information or these data sources, may be shared by the agency with the general public.
 - c. Maintains a proper accounting system in accordance with generally accepted accounting standards or agency directives, if applicable.
 - d. Will establish safeguards to prohibit all grantee employees from using their positions for purposes that constitute or present the appearance of any personal or organizational conflict of interest.
 - e. Will initiate and complete the grant project work within the applicable time frame after receipt of AMS approval.
 - f. Will comply with all Federal statutes relating to nondiscrimination on the basis of race, color or national origin; on the basis of sex; on the basis of age; on the basis of treatment for drug abuse; on the basis of disabilities; and on the basis of alcohol abuse or alcoholism.

- g. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
- h. Will comply with applicable environmental standards which may be prescribed pursuant to the following:
- Institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514,
 - Compliance with the Clean Air Act and the clean Water Act pursuant to EO 11738,
 - Compliance with applicable State Environmental Regulations,
 - Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and,
 - Protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
- i. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
- j. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.
- k. Will refrain from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance. If a principal or employee is convicted of a criminal drug offense resulting from a violation occurring during the conduct of an award activity, one must report the conviction in writing to the award agency within 10 days of the conviction. (§5151-5610 of the Drug-Free Workplace Act of 1988),
- l. Must comply with 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," from using appropriated Federal funds to pay any person for influencing or attempting to influence any officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress with respect to the award, extension, continuation, renewal, amendment, or modification of any of these instruments. These requirements are implemented for USDA in 2 CFR Part 200, which also describes types of activities, such as legislative liaison activities and professional and technical services that are not subject to this prohibition.

An ["SF-LLL "Disclosure of Lobbying Activities"](#) is required for each payment made to any lobbying entity for influencing or attempting to influence an officer or employee of

any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the award..

- m. Includes no principals who are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency; have been convicted or indicted under criminal or civil statutes or had one or more public transactions terminated for cause or default within the past three years. The recipient will provide immediate written notice to AMS if at any time it learns that this certification was erroneous when made or has become erroneous by reason of changed circumstances; and will require recipients of lower-tier covered transactions under this grant award to similarly certify (Executive Order 12549, as updated by EO 12689; the U.S. System for Awards Management at www.sam.gov can verify the debarment status of any contractor or subcontractor.) [2 CFR part 180.435 as supplemented by 2 CFR part 417.437].
- n. Is aware that this award is subject to the provisions contained in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2012, P.L. No. 112-55, and 2 CFR part 417.800 regarding corporate felony convictions and corporate federal tax delinquencies. Accordingly, by accepting this award the grantee acknowledges that it:
 - 1. does not have a tax delinquency, meaning that it is not subject to any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, and
 - 2. has not been convicted (or had an officer or agent acting on its behalf convicted) of a felony criminal violation under any Federal or State law within 24 months preceding the award, unless a suspending and debarment official of the United States Department of Agriculture has considered suspension or debarment of the recipient corporation, or such officer or agent, based on these convictions and/or tax delinquencies and determined that suspension or debarment is not necessary to protect the interests of the Government.
- o. The organization must comply with the requirement that no member of Congress must be admitted to any share or part of this agreement, or to any benefit arising from it, in accordance with 41 U.S.C. 22.
- p. Must comply with 2 CFR part 25, System for Award Management and Universal Identifier Requirements. See Appendix A to part 25 – Award Term for Central Contractor Registration and Universal Identifier Requirements.

Must notify your potential subrecipients, with the exception of individuals, that they may not receive a subaward unless the entity has provided its DUNS number to you. The organization may not make a subaward to an entity unless the entity has provided its DUNS number to you.

- q. In order to reduce traffic accidents and the resulting deaths, injuries, and property damage (see 23 USC 402), recipients shall comply with uniform guidelines that reduce injuries and deaths resulting from motor vehicles being driven in excess of posted speed limits; encourage the proper use of occupant protection devices (including the use of safety belts and child restraint systems) by occupants of motor vehicles; reduce injuries and deaths resulting from persons driving motor vehicles while impaired by alcohol or a controlled substance; prevent accidents and reduce injuries and deaths resulting from accidents involving motor vehicles and motorcycles; reduce injuries and deaths resulting from accidents involving school buses; reduce accidents resulting from unsafe driving behavior (including aggressive or fatigued driving and distracted driving arising from the use of electronic devices in vehicles (e.g. texting)); and improve law enforcement services in motor vehicle accident prevention, traffic supervision, and post-accident procedures. Recipients will also help to ensure the safety of driver performance by ensuring that drivers have taken proper driver education courses and demonstrated proficiency and physical/mental ability to operate motor vehicles in accordance with state laws.
- r. Recipients of Federal financial assistance must comply with the following laws and regulations:
- 7 CFR Part 15, Subpart A - Nondiscrimination in Federally-Assisted Programs of the Department of Agriculture
 - Title VI of the Civil Rights Act of 1964, title 42, United States Code (U.S.C.) §§ 2000d - 2000d-7;
 - Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794;
 - The Age Discrimination Act of 1975, 42 U.S.C. § 6101, et seq;

If the grantee fails to comply with these provisions, the Agricultural Marketing Service will annul this agreement and may recover any funds the recipient has expended.

D. GRANTEE STANDARDS AND RESPONSIBILITIES

General Provisions. Grantees shall ensure that:

1. The recipient organization becomes sufficiently familiar with all terms and conditions specified in the grant application so that all grantee responsibilities are fulfilled. Such certification becomes an important, basic part of the grant agreement. The grant agreement is defined as encompassing all of the following:
 - “AMS Grant Agreement Face Sheet,” which will serve as the recipient signature page for the grantee and AMS representative.
 - Specifications set forth within the documents required in the 2014 FMPP Funding Announcement and The FMPP 2014 General Terms and Conditions.
 - AMS-approved form TM-29 FMPP Project Proposal Narrative”, and the form TM-30, FMPP Supplemental Budget Summary(ies)”. - AMS-approved detailed, itemized, and approved costs/budget MS Excel spreadsheet(s).
2. The recipient organization becomes sufficiently familiar with the FMPP 2014 Grant General Terms and Conditions, which contains the requirements for acceptance of FMPP grant funds, including actions needing prior approval; changes in project contacts, leaders, and staff; performance monitoring; reporting requirements; cost principles; payment requests and financial reporting requirements; and assurances and certifications.
3. All Administrative requirements found in the regulations cited in 2 CFR Part 200.
4. The recipient organization has the financial stability and capacity to begin and complete the FMPP awarded project, and has adequate written internal controls to be fully accountable for implementation of the FMPP grant. In addition, Institutions of Higher Education and Hospitals not operated under some governmental entity, Non-profit Organizations, and For-Profit Organizations – are required to establish written internal controls to provide for full accountability of FMPP grant funds.

The primary objective of such controls is to minimize the time elapsing between the transfer of FMPP grant funds to the grantee and the issuing of payments for program purposes by the grantee. Such written procedures need not be complex, but must be clear, giving adequate details of established procedures in each category of expenditures approved under the FMPP project.

5. The recipient organization is able to ensure that proper grant administrative management and reporting procedures are followed, and that grant funds are used only for activities covered by the approved project, work plan, and budget. The performance of all project activities and any sub-grantees will be monitored by the grantee to ensure that the work is completed within the required time frame.

6. The recipient organization will send AMS copies of any contract/agreement it executes for product or services relating to the FMPP project. In addition, the grantee will file a Federal Funding Accountability and Transparency Act (FFATA) Subaward Report for contractors/consultants/subgrantees receiving \$25,000 or more in FMPP grant funds. Information on FFATA reporting can be found at <https://www.fsr.gov/>.
7. AMS is notified as soon as problems, delays, or adverse conditions become known which will materially impair the ability to meet the objective of the award. Conversely, AMS should also be notified if favorable developments such as meeting time schedules and objectives at significantly earlier dates or at less cost occur.
8. If, for any reason, the project cannot be completed within the established time frame and a one-time extension is needed, the recipient organization will contact AMS in writing at least 10 calendar days before the end of the period of performance as specified in the Federal award. A written or (signed and scanned) emailed letter from the grantee briefly explaining the need for the extension and specifying a new ending date is required. Section E details procedures for additional changes requiring advance approvals from AMS.

Publishing FMPP Project Results. The results of FMPP grant project(s) are made available for publication by the Federal Agency, the grantee, or by appropriate subcontractors or sub recipients, as mutually agreed.

E. ALLOWABLE AND UNALLOWABLE COST AND ACTIVITIES

Allowable cost should be reasonable, allocable and allowable under Federal Cost Principles and in agreement with the purposes of FMPP. All costs should relate to the budget, and tie directly to project activities and impact. Costs should be associated with quantitative and qualitative metrics as proposed in the project narrative.

Allowable Costs and Activities with Conditions

The following list describes allowable costs with specific restrictions under the AMS FMPP. This section is not intended to be all-inclusive; FMPP applicants that have questions should contact the AMS FMPP:

- Entertainment costs must be related to the project and approved by FMPP at the time of award.
- Special-purpose equipment is tangible personal property having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds \$5,000, and is used only for research, scientific, or other technical activities. Acquisition cost means the net invoice price of the equipment including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. This category may include food trucks and mobile markets.

Recipients and subrecipients purchasing any special-purpose equipment are encouraged to use such funds to purchase only American-made equipment or products.

If the special-purpose equipment has a per-unit fair market value of \$5,000 or more, and the equipment is no longer needed for the original project or program or for other activities currently or previously sponsored by the Federal government it may be sold or retained. If the equipment and/or supplies are sold, the federal government shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the Federal share of the equipment. For further disposition instructions and forms, please contact the FMPP.

- Vehicle and equipment lease or rental with an acquisition costs that equals or exceeds \$5,000. Rates should be in light of such factors as: rental costs of comparable vehicles or equipment, if any; market conditions in the area; alternatives available; and the type, life expectancy, condition, and value of the vehicle or equipment leased.

Unallowable Costs and Activities

- Alcoholic beverages.
- Airfare costs in excess of the customary standard commercial airfare (coach or equivalent), Federal Government contract airfare, or the lowest commercial discount airfare.
- Bad debts, including losses (whether actual or estimated) arising from uncollectable accounts and other claims, related collection costs, and related legal costs.
- Capital expenditures for the acquisition of buildings, facilities, or land or to make additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations or alterations of an existing building or facility (including site grading and improvement, and architecture fees). This may also include the purchase of construction materials wood, nails, concrete, gravel, sand, paint, insulation, drywall, or plumbing.
- Business meal(s) costs may not be charged as project costs when individuals decide to go to lunch or dinner together when no need exists for continuity of a meeting. Such activity is considered to be an entertainment cost. In contrast, lunch or dinner meals may be charged to the project if a justification is provided that such activity maintains the continuity of the meeting and to do otherwise will impose arduous conditions on the meeting participants. Breakfasts for conference attendees are usually considered unallowable as it is expected these individuals will have sufficient time to obtain this meal on their own before the conference begins in the morning.
- Contributions to a contingency reserve or any similar provision (rainy day funds) made for the occurrence of events which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening.
- Contributions or donations, including cash, property, and services, made by the awardee, regardless of the recipient Costs which lie outside the scope of the approved project(s) and any amendments thereto.

- Costs which lie outside the scope of the approved project and any amendments thereto.
- Costs incurred after the expiration of the grant award period, including no-cost extensions of time.
- Costs of goods or services for personal use of the State or local governmental unit's employees regardless of whether the cost is reported as taxable income to the employees.
- Costs of investment counsel and staff and similar expenses incurred to enhance income from investments.
- Development or participation in lobbying activities including costs of membership in organizations substantially engaged in lobbying.
- Development or participation in political activities in accordance with provisions of the Hatch Act (5 U.S.C. 1501-1508 and 7324-7326).
- Donated or volunteered services may be furnished to an awardee by professional and technical personnel, consultants, and other skilled and unskilled labor. The value of these services is not reimbursable as a direct or indirect cost.
- Farm and gardening supplies, i.e., shovels, seeds, fertilizer, soil, and water.
- Fines, penalties, damages, and other settlements resulting from violations (or alleged violations) of, or failure of the State or local governmental unit to comply with, Federal, State, local, or Indian tribal laws and regulations.
- Fundraising including financial campaigns, solicitation of gifts and bequests, and similar expenses incurred to raise capital or obtain contributions, regardless of the purpose for which the funds will be used. This includes salaries of personnel involved in activities to raise capital.
- Indirect costs in excess of 10 percent; this limitation also applies to any subcontracts under the funded award.
- General costs of State or local Government including: (1) salaries and expenses of the Office of the Governor of a State or the chief executive of a political subdivision or the chief executive of Federally-recognized Indian tribal government; (2) salaries and other expenses of a State legislature, tribal council, or similar local governmental body, such as a county supervisor, city council, school board, etc., whether incurred for purposes of legislation or executive direction; (3) costs of the judiciary branch of a government; (4) costs of prosecutorial activities; and (5) costs of other general types of government services normally provided to the general public, such as fire and police.
- The purchase of food-relative incentives, including bonuses, coupons, and vouchers.
- International travel and other related expenses.

- Specific organizational entertainment costs, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities), regardless of their apparent relationship to project objectives.
- Grant funds cannot be used to supplant State funds.
- Funds to be used towards travel costs for AMS FMPP employees.
- Miscellaneous funds.
- Re-granting of FMPP funds from the awardee to the public or subrecipients.

F. GRANT MANAGEMENT GUIDANCE

1. PRIOR APPROVAL

Significant changes in any FMPP project require a written request including signature (or email), from the Program Contact for the grantee AND a signature or email approving the change from AMS before the grantee may proceed. The request may be: a) a faxed document, b) an email and the signed, mailed or faxed written request, c) a PDF file with a signature, or d) a hard copy request sent by overnight courier service delivered to AMS.

The following changes in FMPP grant projects require prior approval:

1. **Changes in Key Personnel.** When there is any change to key personnel as listed in the FMPP application, the grantee must submit a written request (email is acceptable) to AMS for approval. The request should contain the new individual's name and contact information, the capacity in which this new individual will serve, and written notification from the individual signifying his or her willingness to serve on the project.
2. **Change in Project Leader.** When the primary project contact/Project Leader (PL) plans to:
 - Relinquish active direction of the project for more than 3 consecutive months,
 - Have a 25 percent or more reduction in time devoted to the project, or
 - Sever his/her connection with the Grantee's organization,

The Grantee has the following prior approval options and responsibilities:

- a. If the PL's absence is temporary, the awardee organization must notify the Federal Agency in writing of arrangements for the continuing conduct of the project (i.e., identify who will be in charge during the PL's absence, including his/her qualifications to assume leadership of the project and his/her written concurrence).
- b. If the PL severs his/her affiliation with the awardee organization, the Grantee's options are:

3. **Subcontracting to the former PL's new organization** - The Grantee must request approval to replace the PL (as outlined in above paragraph) and retain the award, but subcontract to the former PL's new organization certain portions of the project to be completed by the former PL.
4. **Scope or Objectives.** When it is necessary to modify the scope or objectives of the award, the grantee must submit a written justification for the change along with the revised scope or objectives of the award to the AMS. Include the project title, purpose, potential impact, expected measurable outcomes, work plan, budget narrative, and project oversight/commitment.
5. **Budget Changes.** When the recipient desires to modify an approved FMPP budget, the modification must be approved in writing by AMS before any change in plans is implemented if the cumulative amount of such modifications exceeds 10 percent (10%) of the project's total budget as last approved by AMS. The request must include:
 - a. A description of the change and
 - b. A justification for the change,
 - c. The impact on the project's goals and objectives
 - d. A copy of the most recently approved budget (Excel) spreadsheet showing the change by category and line item, and
 - e. Signatures (or email) of the Program Contact for the grantee.

The signature of the responsible AMS representative or an email from that representative must be obtained to document approval before any budgetary change is implemented.

Transfers of FMPP funds between approved categories may be made if the transfer amount is less than 10% of the total award and **ONLY** if the payment request documenting the transfer includes in the cover memo a description of the change and a justification for the change as it relates to the FMPP Project.

6. **No-Cost Extension of Grant Agreement.** Where an extension of time is required (no cost extension), the extension request must be received in writing no later than 10 days prior to the expiration date of the award. The request from the grantee must contain all of the following information:
 - a. The length of additional time required to complete project objectives and a justification of need for the extension.
 - b. A summary of progress to date (status of project timeline and objectives, etc.).
 - c. An estimate of remaining funds on the scheduled expiration date.
 - d. A projected timetable to complete the project for which the extension is being requested.
 - e. Signature or email of the grantee Program Contact.

Note: **The fact that funds are expected to remain unutilized or unobligated at the end of the award is not in itself sufficient justification to receive a no cost extension of time.** Decisions will be made on a case-by-case basis based on the written justification provided. FMPP awards

are limited to not more than 2.5 years in duration from the date the grant agreement was signed by the grantee, therefore no more than one extension of up to 6 months will be provided for a 2-year grant.

Requests for no-cost extensions of time received after the original grant completion date of the award normally will not be honored. If a recipient has not requested and received an extension within the appropriate time period, AMS will de-obligate any remaining grant funds.

2. FINANCIAL MANAGEMENT STANDARDS

All recipients must expend and account for funds in accordance with State laws and procedures that apply to the expenditure of and the accounting for the organization's own funds as long as those procedures are sufficient to permit preparation of required reports and tracing of expenditures to a level adequate to establish that award funds have not been used in violation of any applicable statutory restrictions or prohibitions. are subject to the administrative requirements and cost principals in 2 CFR Part 200.302.

3. PROCUREMENT

Procurement Policy. FMPP projects are well defined in the application process, and all FMPP project procurement is pre-approved. Grantee procurement not approved on the project plan and included in the budget is not allowed without written approval of changes in the project plan approved by AMS as detailed in Section F. 5. for project amendments.

Grantees accept the responsibility for developing written procurement policies by acceptance of the FMPP agreement. Procurement policy should ensure the following, at minimum:

1. Purchase of unnecessary items is avoided.
2. Analysis of lease vs. purchase options is made when appropriate to determine the most economical and practical procurement.
3. Solicitations for goods and services shall include, if practicable and when appropriate:
 - Clear technical requirements
 - Bidder requirements and evaluation factors
 - Functional technical description with range of acceptable performance
 - "Brand name or equal" description standard
 - Preference for products/services that conserve natural resources and are energy efficient

The implementation of almost all FMPP grantee projects involve the need to purchase or procure approved items in the budget categories of equipment, supplies or travel, so written procedures which reflect the grantee's internal controls for procurement must be in place before reimbursement for any purchase.

2 CFR Part 200.318, also requires all FMPP grantees to establish and maintain a written code or standard of conduct governing the performance of their officers, employees or agents engaged in awarding and administering contracts and procurements supported by FMPP funds. These standards must include provisions that govern the conduct of the grantee's employees in connection with procurement activities by:

- a. Prohibiting grantee officers, employees, agents, or others engaged in awarding and administering contracts and procurement supported by FMPP funds from using their positions for any purpose that is, or gives the appearance of being, motivated by a desire for private financial gain for themselves or others with whom they have close ties.
- b. Define the grantee's acceptable methods of documenting adequate procurement procedures, such as sealed bids or negotiations, in order to ensure efficient procurement.
- c. Such standards should reflect state and local laws and must define personal financial interests, gifts, bribes, gratuities, favors, and related areas as necessary.
- d. Standards must identify the conditions under which outside activities or interests are proper or improper, provide for prompt notification of violations to a responsible and objective grantee official, and establish grantee disciplinary action against those who violate the standards.
- e. A copy of these written standards does not have to be submitted to the AMS for approval or recordkeeping purposes; however, the procurement standards must be made available for review by the Federal Agency or its designated representatives, if requested.
- f. AMS may review the grantee's written standards of conduct for procurement to determine if they meet the minimum standards of authority cited above. If they do not, the grantee will be notified of deficiencies, if found, and will make corrections as needed.

All procurement transactions for FMPP grant projects, regardless of whether by sealed bids or by negotiations and without regard to dollar value shall be conducted in a manner that provides maximum open and free competition. Records must be maintained for all procurement transactions under FMPP documenting this requirement.

4. Grantees must maintain all procurement records and require from contractors the maintenance of procurement records related to the FMPP grant that are equal to that required of the grantee:
 - a. In contracts and subcontracts under an FMPP grant, the grantee must require that access to the contractor's records be provided to the grantee as well as to AMS.
 - b. In addition, for contracts in excess of \$10,000, a provision requiring compliance with Executive Order 11246, concerning equal employment opportunity as amended by

Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Chapter 60) is required.

- c. Grantees and contractors must observe the same record retention requirements: records pertaining to any FMPP project contracts must be retained for three years after final payment is made under the contract or contracts and all pending matters are closed. Further, if any audit, litigation, or other action involving the FMPP project contract records is begun before the end of the three year period, the records must be retained for an extended period of time until all issues arising out of the action are resolved.

4. PROGRAM INCOME

If program income is earned it may be used for 1) expanding the project or program; 2) continuing the project or program after the grant or sub grant support ends; 3) supporting other projects or programs that further the broad objectives of the grant program; or 4) obtaining supplies or other assets needed for the project or program or 5) for other activities that further the grant program's objectives. FMPP allows the organization to retain and utilize this funding however all program income must be recorded on the Federal Financial Report (SF-425) for the period in which it was earned.

5. PAYMENTS

Recipients must request the funds necessary to carry out the project by submitting a complete Request for Advance or Reimbursement Form SF-270 for each payment requested.

All payments, including advances and reimbursements, will be limited to the minimum amount required to meet short-term (3 to 4 month) disbursement needs. The timing and amount of advances shall be as close as is administratively feasible to the actual disbursement by the recipient organization for direct program or project costs and the proportionate share of any allowable indirect costs.

A payment request must include:

1. **Cover Letter.** A brief letter/memo indicating project progress, purpose of, and type of payment request. Advances and reimbursements must NOT be on the same SF-270.
2. **Approved Budget.** A copy of the approved FMPP budget in the MS Excel format provided by FMPP showing a new column indicating the request of funds beside the approved budget categories.
3. **Signed SF-270.** The completed and signed SF-270 is required. No payment request will be processed without the authorized representative's signature. Payments of grant funds must be requested by the same designated organization representative. This individual must

request the amount of funds to carry out the project by submitting a completed form SF-270.

4. **Signed SF-425 Financial Report.** The SF-425 must be submitted with every payment request submitted by the grantee. There is no exception to this requirement. The information is used to determine the use of cash provided to the grantee and the organization's spending practices in correlation to the project performance reports. The SF-425 form can be obtained from the FMPP Website (<http://www.ams.usda.gov/FMPP>) and a signed copy may be scanned and transmitted by email as a PDF document.
5. **Final Federal Financial Report.** A final Form SF-425 is also required no later than 90 days following the grant ending date. The SF-425 form can be obtained from the FMPP Website (www.ams.usda.gov/FMPP) and a signed copy may be scanned and transmitted by email as a PDF document.

To expedite the payment requests, payment forms are emailed to (USDAFMPPPayments@ams.usda.gov).

Copies of invoice(s), receipt(s), and personnel timesheets must be kept to document all approved expenditures for FMPP projects. The records of grantees must include the source documents for all specific expenditures incurred during each requested payment period. These invoice(s), receipt(s), and personnel timesheets must be kept by the grantee as documentation for the grantee's FMPP project files. Personnel time sheets must account for all hours charged against the FMPP grant and include the signature of each employee who is paid for the work to certify the time spent upon the FMPP project. The records must correlate exactly to each specific approved purchase/expenditure using FMPP funds. This documentation may be reviewed during a desk audit or site visit.

NOTE: AMS will withhold payment(s) if the grantee fails to submit: 1) any required performance report or financial reports, or 2) any other document(s) within the terms and conditions of the award, including the submission of all payment documents described above.

7. PERFORMANCE MONITORING

Performance Monitoring Reports should correspond to the workplan/time requirements and/or logic model activities submitted with the approved proposal narrative. All reports must be formatted and submitted as provided within FMPP Performance Measurement and Evaluation and the FMPP Interim Performance Report and Final Performance Report (templates). Reports should be submitted electronically to FMPP via www.USDAFMPPPayments@ams.usda.gov.

1. **Interim Performance Reports.** Performance (progress) reports are required at six 6-month intervals. Separate templates are provided for the interim report. Payment requests will not be processed if any grantee is delinquent in submission of the interim performance report. The interim performance report of results and accomplishments is due within 30

days following the reporting period. For example: Reporting period covering October 1 – March 31 (1st interim report) - is due April 30th.

2. **Final Performance Report.** Required to fulfill the terms of the grant agreement, this final performance report also represents an important vehicle for sharing project findings with Federal and State agencies and the public. Grantees must follow the final report template for posting on the FMPP Web site. The final performance report of results and accomplishments is due within 90 days following the grant ending date.

NOTE: The Federal Agency will withhold payment(s) if the grantee fails to submit: 1) any required performance or financial report, or 2) any other document(s) within the terms and conditions of the award, including the submission of all payment documents.

8. AWARD CLOSEOUT

General Provisions. Award closeout is the process by which AMS determines that all required project activities have been performed satisfactorily and all necessary administrative actions have been completed. The grantee and any subcontractors shall seek close out as soon as possible after expiration and termination of the project.

FMPP Awardee Closeout. Before an FMPP grant can be closed, a grantee must submit all required documents. These documents are due no more than 90 days following the project/grant's end date. Documents required for closeout are:

- 1) Final Performance Report,
- 2) Final Federal Financial Report (SF-425),
- 3) Any requested payment paperwork,
- 4) Any project deliverables, and
- 5) Any payment/de-obligation (unused grant fund) checks payable to the U.S. Treasury.

After receipt, review, and approval of these documents, AMS will email or mail the grantee a closeout letter, which confers eligibility for future grants. Grantees are eligible for subsequent FMPP grants 1 year after the close out letter is received.

If a Grantee has not requested an extension within the appropriate time period, AMS will de-obligate any remaining grant funds 60 days after the grant period closes and will email or mail the grantee a closeout letter once all requirements (above) are met. No funds will be dispersed after the grant close-out.

Future eligibility for FMPP grants requires: 1) completion of the FMPP current grant project, 2) AMS receipt and approval of all required documentation and reports (above). Such eligibility is evidenced by the grantee's receipt of the AMS close-out letter/documentation.

G. COMPLIANCE

1. SUSPENSION/TERMINATION

If AMS, after reasonable notice to the organization, determines that there has been a failure by the grantee to comply substantially with any provision of the FMPP award, or other applicable laws or regulations, AMS may disqualify, for one or more years, the organization from receipt of future AMS grants.

AMS may also suspend or terminate the FMPP grant in whole or in part in accordance with 2 CFR Part 200.338 and 2 CFR Part 200.339 through 200.342.

2. SITE VISITS AND PROJECT RECORDS

Work performed on any project approved under this grant is subject to inspection and evaluation at any time by officials of AMS, or by any of their duly authorized representatives through such mechanisms as the review of performance reports and site visits. To the extent possible, all site visits will be made at mutually acceptable intervals and will be timed to avoid disruption to the project work and to grantee programs and personnel.

AMS and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the right of access to any books, documents, papers, or other project-related records of the grantee and its contractors under this grant for examination and audit purposes and to obtain excerpts and transcripts.

Financial records, supporting documents, statistical records, and other records pertinent to this grant award shall be retained by the grantee and its contractors for a period of three years after submission and acceptance of the final SF-425, Federal Financial Report. Records relating to audits, appeals, litigation, or the settlement of claims arising out of project performance shall be retained until such audits, appeals, litigation, or claims have been settled.

3. RECORD RETENTION

Records pertaining to any FMPP project must be retained by the grantee for three years after final payment is made under the agreement and the grant is successfully closed out. In addition, if any audit, litigation, or other action involving the FMPP project is begun before the end of the three year period, the records must be retained until all issues arising out of the action are resolved. See 2 CFR Part 200.333 and 2 CFR Part 200.336 for qualifications to the 3-year retention requirement (e.g., if any litigation, claim, financial management review, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken). Those sections also specify the retention period for other types of grant-related records, including property records. Costs which cannot be supported by source documentation or which are incurred outside of the approved grant period may result in award funds being returned to FMPP.

4. FRAUD, WASTE OR ABUSE

Anyone who becomes aware of the existence (or apparent existence) of fraud, waste, or abuse related to FMPP grants or use of grant funds should report this information to USDA. The USDA Office of the Inspector General (OIG) provides several means, including toll-free numbers, for this purpose. The OIG hotline may be reached by:

Office of the Inspector General,
United States Department of Agriculture
Attn: HOTLINE
PO Box 23399,
Washington, DC 20026-3399

Telephone: 1-800-424-9121 (toll free) or 202-690-1202 (TDD);
Fax: 202-690-2474
E-mail: usda.hotline@oig.usda.gov
Internet: <http://www.usda.gov/oig/hotline.htm>

Fraud, waste, and abuse includes, but is not limited to, embezzlement, misuse, or misappropriation of grant funds or property, and false statements, whether by organizations or individuals. Examples are theft of grant funds for personal use; using funds for non-grant-related purposes; theft of Federally owned property or property acquired or leased under a grant; charging inflated building rental fees for a building owned by the recipient; submitting false financial reports; and submitting false financial data in bids submitted to the recipient (for eventual payment under the grant). Callers are not required to give their names and, if they do, their identities are kept confidential.

The Federal government may pursue administrative, civil, or criminal action under a variety of statutes that relate to fraud and false statements or claims. Even if a grant is not awarded, the applicant may be subject to penalties if the information contained in or submitted as part of an application, including its certifications and assurances, is found to be false, fictitious, or fraudulent.

H. FMPP CONTACTS

FMPP Branch Chief

Mrs. Carmen Humphrey

FMPP Grants Management Specialists

Ms. Lee Cliburn
Mr. Karl Hacker
Mrs. Earlene Henderson-Samuels

Mr. Ricardo Krajewski
Mrs. Camia Lane

Address

Farmers Market Promotion Program

USDA, Agricultural Marketing Service

1400 Independence Avenue, SW

Room 4543-South Building

Stop 0269

Washington, DC 20250-0269

e-mail address: USDAFMPPPayments@usda.gov

Contact for Submission of Payments, Financial Reports Organizational or Project Changes and Performance Reports.

Awardees should send the documents listed above to USDAFMPPPayments@ams.usda.gov. Always include the FMPP grant number (for example, 14-FMPPX-AK-0025) in the subject line of any and all emailed communication. This number allows FMPP staff to assist in servicing each request more expeditiously.