



Farm Labor Stabilization and Protection Pilot Program

**Fiscal Year (FY) 2023
Farm Labor Stabilization and Protection
Pilot Program
Notice of Funding Opportunity (NFO)**

No. USDA-FSA-OA-FLSP-G-23-0001



NOTICE OF FUNDING OPPORTUNITY (NFO)

Federal Awarding Agency Name: U.S. Department of Agriculture (USDA) – Farm Service Agency (FSA)

Notice of Funding Opportunity Title: Farm Labor Stabilization and Protection Pilot Program (FLSP)

Notice of Funding Opportunity Number: USDA-FSA-OA-FLSP-G-23-0001

Assistance Listing: 10.978

Dates: Applications for the FLSP program must be received on or before 11:59 pm Eastern Time on January 03, 2024 through [Grants.gov](https://www.grants.gov). Applications received after this deadline will not be considered for funding.

Executive Summary: USDA requests applications for the fiscal year (FY) 2023 Farm Labor Stabilization and Protection Pilot (FLSP) grant program. Section 1001(b)(4) of the American Rescue Plan Act (ARPA) ([Pub. L. No. 117-2](#)) provides funds for the FLSP program, for the purpose of providing “loans and grants and other assistance to maintain and improve food and agricultural supply chain resiliency.” The USDA Farm Service Agency (FSA) will provide the FLSP Program funding; however, USDA Agricultural Marketing Service (AMS) will administer the program. This Notice will refer to FSA and AMS jointly as USDA.

This funding announcement provides information about the eligibility criteria for applicants, associated instructions to apply for a grant and required documents, and evaluation criteria.

The FLSP program aims to improve food and agricultural supply chain resiliency by addressing challenges agricultural employers face with labor shortages and instability. The FLSP Program seeks to advance the following Administration priorities and funds will be awarded with the purpose described below:

- Goal 1: Drive U.S. economic recovery and safeguard domestic food supply by addressing current labor shortages in agriculture;
- Goal 2: Reduce irregular migration from Northern Central America through the expansion of regular pathways; and
- Goal 3: Improve working conditions for all farmworkers.

USDA will advance these priorities by awarding grants to agricultural employers, to be known as Awardees, that commit to all *Baseline Requirements* and choose to apply for employees through the [H-2A Temporary, Agricultural Employment of Foreign Workers Program \(“the H-2A program”\)](#) as outlined in [Section 218 of the Immigration and Nationality Act](#), and based on the additional competitiveness of their application.

Awardees must demonstrate an effort to effectively recruit U.S. based workers and hire all willing, able, and qualified U.S. applicants; if Awardees are unable to meet their labor needs through this recruitment, they must submit an application for Temporary Employment Certification (Form 9142A), in accordance with U.S. Department of Labor (DOL) H-2A program. More information on eligibility and the [H-2A Temporary, Agricultural Employment of Foreign Workers Program \(“the H-2A program”\)](#) as outlined in [Section 218 of the Immigration and Nationality Act](#), including DOL and U.S. Department of Homeland Security (DHS) requirements can be found in [Section 3.3](#).

Awardees will be selected based on commitment to all *Baseline Requirements of the FLSP*, employing workers through the H-2A Temporary, Agricultural Employment of Foreign Workers Program (“the H-2A program”), and on the competitive nature of their application.

Up to \$65 million will be available to fund grants under this solicitation. The maximum award amount is \$2,000,000 and the minimum amount is \$25,000 per grant agreement (and any sub-awardees as described in [Section 3.4](#)). Award amounts will be determined based on the projected number of full-time equivalent (FTE) agricultural employees, and requested award level.

Stakeholder Input: USDA welcomes comments about this NFO, and we will consider them in developing future NFOs. Email written stakeholder comments within one year of the publication date of this NFO to: FLSPgrants@usda.gov. This email address is intended only for receiving comments regarding this NFO and not requesting information or forms.

APPLICATION CHECKLIST

USDA expects applicants to read the entire NFO prior to submitting their application to ensure they understand the program’s requirements. See [Section 5.2](#) for more details on the required contents of an application package.

The required documents for an application package include the following:

- Standard Form (SF) 424 – Application for Federal Assistance (in Grants.gov)
- FLSP Project Abstract Summary (in Grants.gov)
- FLSP Narrative Form (attached as PDF)

When applicable, application packages are required to include the following (attached as PDF or MSWord)

- Signed Letters of Commitment – from all Partner and Sub-Awardee organizations
- Private Recruiter Letter of Commitment – for applicants utilizing private recruiters
- Contract or evidence of participation – for any applicants engaged in a worker-driven social responsibility contract, collective bargaining agreement, or other partnership contract

TIPS FOR APPLICANTS

- Thoroughly read this NFO and follow all instructions.
- Register in Grants.gov and submit applications early. **DO NOT WAIT UNTIL THE DAY OF THE APPLICATION DEADLINE.** USDA encourages you to submit your application at least two weeks before the application deadline to ensure all certifications are met.
- Apply to the correct grant program in Grants.gov using the correct Assistance listing (formerly Catalog of Federal Domestic Assistance (CFDA) number “10.978” and Funding Opportunity Number “USDA-FSA-OA-FLSP-G-23-0001”
- To do business with the Federal Government and to submit your application electronically using Grants.gov, you must:
 - Have a Unique Entity Identifier (UEI) and a Taxpayer Identification Number (TIN);
 - Be registered in the System for Awards Management (SAM.gov), the Government's primary registrant database;
 - Provide your Unique Entity Identifier (UEI) number and TIN on your application; and

- Maintain an active SAM.gov registration with current information throughout the application review period, and if you are awarded a grant, throughout the duration of the project period.
- Thoroughly review the [FLSP General Terms and Conditions](#). Ensure the application excludes unallowable costs and activities.
- Ensure you have the most recent copy of Adobe Reader installed on your computer and that it is compatible with Grants.gov software. Grants.gov supports Adobe Reader version 9.0.0 and higher.
- Limit Application File Size/File Name Characters (50 or less).
- Avoid Special Characters in File Names (\$, %, &, *, ñ, etc.).
- When uploading attachments, click the “Add Attachments” button (do NOT use the “paperclip” icon in Adobe Reader).
- Do not password-protect your documents and make sure all tracked-changes are “accepted”.
- Review the Grants.gov Applicant User and Registration Guides:
 - [Applicant FAQs](#)
 - [Workspace Overview](#)

USDA staff cannot support applicants regarding Grants.gov accounts. For technical issues with Grants.gov, contact Grants.gov Applicant Support at 1-800-518-4726 or support@grants.gov. For new Grants.gov users, see [Section 5.2](#) for information about steps required before submitting an application via Grants.gov.

For inquiries specific to the content of the NFO requirements, contact the Federal awarding agency contact ([Section 8.0](#)) or the [FLSP Technical Assistance Provider](#). Please limit questions to those regarding specific information contained in this NFO (such as dates, page numbers, clarification of discrepancies, etc.).

TECHNICAL ASSISTANCE

FLSP and H-2A Technical Assistance: USDA will offer no-cost technical assistance (TA) to help applicants navigate a broad range of needs in applying to this grant program, including determining eligibility and desired award level, meeting grant requirements, and navigating U.S.-based recruitment and the H-2A program and compliance. In addition to the grant funding itself, the technical assistance is one of the program’s primary benefits for agricultural employers. For more information on technical assistance available, visit: www.ams.usda.gov/FLSP.

Federal Financial Assistance Training: The funding available through this NFO is Federal financial assistance. Grants 101 Training is highly recommended for those seeking knowledge about Federal financial assistance. The training is free and available to the public at <https://www.grants.gov/learn-grants.html>.

TIMING TO OBTAIN AND SUBMIT GRANTS.GOV REQUIRED ELEMENTS

Required Action	<i>Timing to Obtain/Submit</i>
The deadline to receive final application and all supporting materials through Grants.Gov	January 03, 2024 – 11:59 p.m. Eastern Time
Obtaining Your Organization’s UEI Number (if you do not already have one)	Allow approximately 7-10 business days
Establishing an Active SAM.gov Account (if you do not already have one)	Allow approximately 7-10 business days
Obtaining a TIN/EIN (if you do not already have one)	Allow approximately 2 weeks
Creating your Grants.gov profile and registering your Authorized Organizational Representative (AOR) authorization	Allow approximately 4 weeks

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1.0 PROGRAM DESCRIPTION

1.1 LEGISLATIVE AUTHORITY

Section 1001(b)(4) of the American Rescue Plan Act (ARPA) ([Pub. L. No. 117-2](#)) funds the Farm Labor Stabilization and Protections Pilot (FLSP) program, pursuant to USDA's authority to provide "loans and grants and other assistance to maintain and improve food and agricultural supply chain resiliency." USDA FSA will provide FLSP funding, and USDA AMS will administer the FLSP Program.

1.2 PURPOSE

The purpose of this program is to improve food and agricultural supply chain resiliency by addressing the challenges agricultural employers face with labor shortages and instability. The FLSP Program seeks to advance the following Administration priorities:

- **Goal 1: Address current labor shortages in agriculture.** Based on stakeholder input, USDA identified an urgent need, and data support, that agricultural employers are experiencing increased challenges finding an adequate supply of workers. U.S. farm employers have turned to the H-2A Temporary Agriculture Workers program, which has seen a seven-fold increase since 2005. The H-2A program helps American farmers who anticipate a lack of available domestic workers and meet specific regulatory requirements to bring nonimmigrant foreign workers to the U.S. to perform agricultural labor or services on a temporary or seasonal basis if certain conditions are met. See [Section 3.3](#) to read more about the H-2A program statutory and regulatory requirements.
- **Goal 2: Reduce irregular migration from Northern Central America through the expansion of regular pathways.** While U.S. agricultural operations seek an additional supply of workers, the U.S. has committed to promote the expansion of regular migration pathways, as part of the [Los Angeles Declaration on Migration and Protection](#). The FLSP offers an opportunity to support this commitment, with economic benefits for foreign workers and their families, and professional and economic development opportunities for communities that send their workers to participate in the H-2A program, including the government-led recruitment and vetting of seasonal workers through the Ministries of El Salvador, Guatemala, and Honduras supported by the U.S. Department of State, U.S. Department of Homeland Security, and U.S. Agency for International Development (USAID).
- **Goal 3: Improve working conditions for farmworkers.** A stable and resilient food and agricultural sector relies on attracting and retaining skilled agricultural workers. Stakeholder input indicates that worker recruitment and retention is strongly influenced by the quality of the jobs, such as those outlined in the Good Jobs Principles from U.S. Departments of Commerce and Labor. The essential FLSP program requirements are designed to promote benefits and protections for workers, namely through greater transparency of the recruitment process and ensuring employees fully understand their rights and resources available to them and sharing this information via culturally relevant approaches and trusted communicators. In addition, the program prioritizes applicants that commit to additional benefits and protections, noted in the *Supplemental Employee Commitments* section, offering higher awards (*Silver* and *Platinum* for different levels of commitments). The benefits and protections required and incentivized by the FLSP have been informed by stakeholder input, research, public comments, listening sessions, and thorough input from other federal agencies.

These priorities were informed by extensive stakeholder outreach. USDA published a Request for Information on challenges employers face in securing a stable workforce, types of incentives and labor standards to improve their ability to hire workers from North Central America and make meaningful progress towards ensuring safer and fairer working conditions for farmworkers, as well as barriers and challenges faced by farmworkers and recommendations on how to increase farmworker awareness of resources and worker rights and [held listening sessions](#) to gather input from agricultural employers, unions and farmworker advocacy groups. Recordings of these sessions are available [here](#). In addition, USDA commissioned a report by the United Farm Workers that provided important insight and helped shape program design.

USDA will advance these priorities by funding grants to agricultural employers, to be known as Awardees, that seek to hire workers through the H-2A Temporary, Agricultural Employment of Foreign Workers Program, as outlined in Section 218 of the Immigration and Nationality Act. For the purposes of this program and NFO, USDA uses the term “agricultural employee” interchangeably with the more colloquial terms, such as “worker,” “agricultural worker,” “farm laborer,” or “farmworker.”

1.3 PROJECT TYPES AND AWARD LEVELS

The FLSP includes three award levels, with increasing funding levels that reflect a higher level of commitment to working conditions for farmworkers. *Baseline* Award projects entail a minimal level of commitment (outlined in **Table 2** below). By committing to additional employee benefits and protections (outlined in **Table 3** below), applicants may submit a more competitive *Silver* or *Platinum* application for a higher award. Beyond the essential public goods supported by *Baseline* Award projects, the *Silver* and *Platinum* Award projects offer meaningful improvements to working conditions for agricultural workers, further supporting food and agriculture supply chain resiliency. **Table 1** lists the range of award amounts based on the desired award level and the total number of full-time equivalent (FTEs) agricultural workers employed by the applicant (and sub-awardees).

Table 1. Award structure, based on FTEs and applicant commitment level.

Award amount	1-10 FTEs	11-25 FTEs	26-75 FTEs	76-200 FTEs	201-500 FTEs	501-2000 FTEs	2001+ FTEs
Baseline	\$ 25,000	\$ 50,000	\$ 100,000	\$ 150,000	\$ 180,000	\$ 215,000	\$ 250,000
Silver	\$ 100,000	\$ 200,000	\$ 400,000	\$ 600,000	\$ 720,000	\$ 860,000	\$ 1,000,000
Platinum	\$ 200,000	\$ 400,000	\$ 800,000	\$ 1,200,000	\$ 1,440,000	\$ 1,720,000	\$ 2,000,000

To be eligible for the *Baseline* award, as well as the higher *Silver* and *Platinum* award levels, applicants must demonstrate their ability to meet all the baseline program requirements.

Table 2. Baseline requirements, for all award levels

Program Requirement	Description
Universal protections and benefits	All commitments must be applied universally to all of the applicant’s agricultural employees, H-2A or otherwise, whether hired directly, jointly or via a contractor, at each and every work site within the applicant’s operation throughout the entirety of the grant performance period. If awarded, all commitments in the Awardee’s application must be included in their H-2A Job Order.

Participation in FLSP research and reporting

USDA and our federal partners seek to understand the degree to which the FLSP’s structure and incentives effectively support a more stable farm workforce for U.S. agricultural employers and incentivize improved working conditions. Findings will help inform employer best practices to attract and retain skilled employees for U.S. agricultural jobs, guide industry stakeholders and policymakers, and illuminate areas for necessary employer and employee support or technical assistance. Awardees must participate in research conducted by a non-partisan, third-party university partner selected by USDA. USDA requires that all Awardees agree to grant access to their full agricultural workforce (or contractors) for the purpose of research surveys and/or interviews for the entirety of the grant performance period, including two annual agricultural seasons. In an effort to understand the long-term effects of FLSP, Awardees and applicants may be contacted to participate in follow-up research.

All research data will be treated confidentially and will be used for research purposes only. Research reports or other outputs will ensure the confidentiality of participants. Data collected in FLSP research will have no impact on grant performance, payments or outcomes.

Participation in Know Your Rights and Resources (KYRR) access and training

This component has been developed to address numerous public comments and stakeholder feedback that expressed the need for culturally appropriate KYRR education for farmworkers conducted by farmworker-trusted entities. For this reason, the FLSP requires Awardees to allow in-person access to all employees and to pay all non-supervisory employees’ time to attend a KYRR session conducted by a USDA cooperator partner at the beginning of workers’ contracts, on-site in a conducive environment. Awardees will be required to contact the USDA Cooperator partner to schedule a Know Your Rights and Resources session within two weeks of employees’ start date.

Responsible Recruitment¹

Applicants must indicate their recruitment methods for U.S. based workers and foreign workers and update the U.S. government if their recruitment methods change after submitting a FLSP application to USDA. If applicants choose to use a private recruiter or recruiting agency, they are required to disclose the name of all agents (as required in the H-2A form I-129), and any sub-contractors that will be used in the process. Applications must provide attestation that any recruiter used is registered in the country in which they are recruiting, if registration is available. In addition, if applicants use private recruiters, the applicants must submit a Recruiter Partner Letter, with the recruiter’s written responses to the questions about recruitment practices.

Awardees remain subject to all applicable federal, state, and local laws regarding recruitment practices, including DOL and DHS H-2A regulations

¹ For more information, see “Guidance on Fair Recruitment Practices for Temporary Migrant Workers,” <https://www.dol.gov/sites/dolgov/files/OPA/newsreleases/2022/06/ILAB20220565.pdf>.

governing recruitment and the charging of fees. See [Section 3.3](#) to read more about the H-2A program statutory and regulatory requirements.

To apply for the *Silver* or *Platinum* award, applicants must commit to and demonstrate their ability to meet selected *Supplemental Employee Commitments*. **Table 3** (below) outlines the elective options applicants can select to be eligible for higher award. Applicants that elect the *Silver* level award must meet *at least two* options from the (mid column) Pay, Benefits and Working Conditions column; it is also recommended, but not required, to select one option from the (right-hand) Partnership Agreements column for the *Silver* level. *Platinum* level applicants must commit to the (left-hand) Responsible Recruitment column and to *at least three* options from the (mid column) Pay, Benefits and Working Conditions column, and *at least one* option from the (right-hand) Partnership Agreements column.

Each elective *Supplemental Employee Commitments* (outlined in **Table 3**) was designed to be achievable by employers, meaningful to employees, and have measures of accountability that allow USDA, as well as employers, to demonstrate the impact of the FLSP program goals. The most competitive applications will indicate strong and compelling commitment and capacity to implement the fullest possible scope of each selected *Supplemental Employee Commitments* (outlined in **Table 3**). **Applicants are advised that each selected additional commitment must be listed as a term and condition of employment in the employer's job order, including any job order associated with the employer's H-2A labor certification application pursuant to 20 CFR 655.121, 655.122(a), 655.103(b) (definition of work contract).** See [Section 3.3](#) to read more about the H-2A program statutory and regulatory requirements.

Table 3. Supplemental Employee Commitments for *Silver* and *Platinum* award levels

RESPONSIBLE RECRUITMENT <i>Silver bundle:</i> recommended but not required <i>Platinum bundle:</i> required	PAY, BENEFITS AND WORKING CONDITIONS <i>Silver bundle:</i> choose at least two <i>Platinum bundle:</i> choose at least three	PARTNERSHIP AGREEMENTS <i>Silver bundle:</i> recommended, but not required <i>Platinum bundle:</i> choose at least one
<i>Selections can include existing practices or new adoptions, but must exceed state law to qualify for Silver or Platinum bundle</i>		
1. Recruitment via NCA Ministries. Demonstrate effort to recruit and hire any H-2A workers through government-led recruitment and vetting of workers from <i>Ministries of Labor</i> in Guatemala and Honduras and the <i>Ministry of Foreign Affairs</i> in El Salvador.	1. Overtime Pay. Where not already required by state law, guarantee of overtime pay (1.5 times hourly rate) for hours worked in excess of 40 hours/week. 2. Bonus Payment. Clearly defined bonus payment to all employees transmitted at regularly scheduled intervals throughout the duration of the employee’s contract. <i>[Describe payment amount, method of implementation, and tactics to ensure transparent payment to employees. This commitment requires a narrative description and may be competitively ranked based on demonstrated implementation plan.]</i> 3. Paid Sick Leave. Paid sick leave plan that includes accruing at least 4 hours per (2-week/bi-monthly) pay period, with a minimum of 5 days leave per year.	1. Participation in a Worker-driven Social Responsibility (WSR) program. If applicant is already participating in a WSR program, they should note protections already in place, e.g., complaint mechanism, auditing, worker education. If this is a new commitment, articulate plan. <i>[Must provide evidence of participation in good standing.]**</i> 2. Participation in a Collective Bargaining Agreement (CBA). The applicant should note protections already in place under any existing CBA, e.g., complaint mechanism, auditing, worker education. If this is a new commitment, please provide details on where you are in

	<p>4. Weekly Housing Maintenance Plan. Establish a weekly plan for maintenance of worker housing, with a responsible entity that fully reviews all units and receives and addresses feedback or concerns from workers. <i>[Describe what you will do and how it will improve the quality of life in housing for employees]</i></p> <p>5. Collaborative Working Group. Implement, or demonstrate current existence of, a collaborative working group or workplace employee engagement committee(s) that address(es) workplace issues such as, but not limited to: workplace safety and health (e.g., water and heat breaks), pesticide safety, transportation safety, housing experience, mechanism for reporting grievances or problems, etc. The committee must include <i>at least 50% hired farmworkers</i>, and may include bona fide third-party experts, in addition to agricultural employer management employees. <i>Describe how you envision the designing the working group, how participants will be chosen, when meetings will take place, whether workers will be paid for meeting time, any external invited participants, and how the committee priorities and action items will addressed, etc.].</i></p> <p>6. Innovative External Partnership. USDA supports innovative approaches to improve the quality of life for farmworkers. Implement or demonstrate a plan to support improving health, safety, worker representation, professional development, or other benefit or program, and note key partnership(s) that will help facilitate implementation. <i>[This commitment requires a narrative description and may be competitively ranked based on demonstrated commitment and public benefit. USDA encourages partnerships with community-based organizations and other institutions that have longstanding experience working directly and collaboratively with farmworkers.]</i></p>	<p>negotiations. <i>[Must provide evidence of participation/contract.]**</i></p> <p>3. Committing to Neutrality, Access, and Voluntary Recognition (where permitted under state law). Neutrality, defined as companies remaining neutral when their employees signal an interest in forming a union. If employees choose representation, management can engage productively with the union and determine what is important to their employees in terms of wages, benefits and working conditions. This includes spending any money, directly or indirectly, including hosting captive audience meetings to discuss the organizing effort. Applicants agree to allow on-site access to their workforce by union members or organizers during non-working hours. <i>In states where permitted</i>, instead of requiring an NLRB-supervised election, employers agree to recognize a union if a majority of employees sign union authorization cards. <i>[This commitment requires a narrative description and may be competitively ranked based on demonstrated commitment and public benefit.]**</i></p> <p>**See Section 3.1, an awardee remains responsible for compliance with and subject to enforcement of all applicable federal, state, and local laws,</p>
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2.0 FEDERAL AWARD INFORMATION

2.1 TYPE OF FEDERAL ASSISTANCE

USDA will use a Grant Agreement to provide the Federal award to successful applicants.

2.2 TYPE OF APPLICATIONS

New application. All new applications will be reviewed competitively using the selection process and evaluation criteria described in [Section 6.1](#).

2.3 AVAILABLE FUNDING

The anticipated amount available for the FLSP Program in FY 2023 is up to \$65,000,000. The maximum award amount is \$2,000,000 and the minimum amount is \$25,000 per grant agreement. However, the agency retains the discretion to award a larger or lesser amount. Funding will be issued as competitive awards. Enactment of additional continuing resolutions or a full appropriations act or other legislation may affect the availability or level of funding for this program. Award size varies by project type and applicants may not request less than or more than the respective minimum/maximum amounts for each project type. USDA is not committed to fund any particular application or to make a specific number of awards.

2.4 FEDERAL AWARD PERIOD AND DURATION

Grant recipients must complete their grant activities within the performance period (24 months). USDA expects to announce awards in early 2024.

The performance period start date will be noted on the Notice of Agreement (i.e. the grant agreement) and coincide with official USDA award selection and announcement. Over the course of the 24-month grant period, awardees must provide confirmation that the Awardee's H-2A job order has been accepted and circulated by the pertinent state workforce agency (SWA) and their approved USCIS I-129 Petition. Each Job Order is based on a temporary, seasonal need, and must be separately approved. The two-year grant period for this program does not denote or guarantee DOL certification. With prior approval, no-cost extensions may be granted to awardees if needed.

3.0 ELIGIBILITY INFORMATION

3.1 ELIGIBLE APPLICANTS

The [H-2A Temporary, Agricultural Employment of Foreign Workers Program \("the H-2A program"\)](#) as outlined in [Section 218 of the Immigration and Nationality Act](#) is designed to address labor shortages in the case of insufficient U.S.-based workers if other conditions are met, including that the employer has a temporary or seasonal need for the requested agricultural labor or services in the temporary certification application.

Therefore, eligibility for this competitive grant program is limited to domestic agricultural employers who 1) anticipate meeting all Department of Labor (DOL) and Department of Homeland Security (DHS) regulatory requirements for the H-2A program, including demonstrated effort to effectively recruit U.S.-based workers and hire all willing, able, and qualified U.S. workers; and 2) commit to, and indicate capacity to fulfill all *Baseline Requirements*, as well as any selected (elective) worker benefits and protections outlined in

Supplemental Employee Commitments sections of the NFO. This includes fixed-site employers, joint-employers, agricultural associations, and H-2A labor contractors (see [Section 9.0 Definitions](#)).

The FLSP grant does not dictate who is considered an employer for the purposes of DOL’s labor certification process or for compliance with the requirements of the H-2A program requirements and subsequent enforcement. For the purposes of this program “agricultural employers” are defined per [29 CFR 501.3](#) and 20 CFR 655.103(b) as “A person (including any individual, partnership, association, corporation, cooperative, firm, joint stock company, trust, or other organization with legal rights and duties) that: (i) Has an employment relationship (such as the ability to hire, pay, fire, supervise, or otherwise control the work of employee) with respect to an H–2A worker or a worker in corresponding employment; or (ii) Files an Application for Temporary Employment Certification other than as an agent; or (iii) Is a person on whose behalf an Application of Temporary Employment Certification is filed.” See [Section 3.4](#) to determine the implications of applying as a certain type of employer.

There is no limit on the number or percentage of U.S.-based employees that applicants hire, and applicants are required to actively recruit, and, subject to the regulations, employ qualified and available US-based workers, in accordance with the Foreign Labor Certification program requirements. Any award received through this program does not guarantee a successful determination of certification from the DOL Office of Foreign Labor Certification.

Grant applicants that have submitted an H-2A Job Order (ETA 790A) and (via recruitment efforts required by the H-2A program of any additional efforts) have subsequently hired U.S. workers, will also be eligible for full awards.

An awardee remains responsible for compliance with and subject to enforcement of all applicable federal, state, and local laws, including investigations by the U.S. Department of Labor to determine the awardee’s compliance with the H-2A program’s requirements under 8 U.S.C. 1188, 20 CFR part 655, subpart B, and 29 CFR part 501. Applicants and/or their authorized attorneys or agents must submit completed job orders to a State Workforce Agency (SWA) no more than 75 calendar days and no fewer than 60 calendar days before the applicant’s first date of need, except in emergency situations that satisfy the criteria of 20 CFR 655.134.

Award payments will be conditional upon applicants submitting the materials specified in [Section 7.3](#).

3.2 ABOUT THE H-2A TEMPORARY FOREIGN AGRICULTURAL WORKERS PROGRAM

The H-2A temporary agricultural program allows agricultural employers who anticipate a shortage of domestic workers to bring nonimmigrant foreign workers to the U.S. to perform agricultural labor or services of a temporary or seasonal nature. Employment of a seasonal nature is tied to a certain time of year by an event or pattern, such as a short annual growing cycle, and requires labor levels above what is necessary for ongoing operations. Employment is of a temporary nature when the employer’s need to fill the position with a temporary worker will, except in extraordinary circumstances, last no longer than one year. The following is a general overview of the process.

Employers must demonstrate to Department of Labor (DOL) that:

- There are insufficient U.S. workers available to perform the labor or services in the labor certification application, and
- That the employment of foreign workers will not adversely affect the wages and working conditions of workers in the U.S. similarly employed.

See Department of Labor website for more information: [H-2A Temporary Certification for Agriculture Workers | Flag.dol.gov](#)

If certified by DOL, employers may then petition the Department of Homeland Security to employ foreign workers to perform temporary or seasonal agricultural work including, but not limited to, planting, cultivating, or harvesting crops.

To qualify for H-2A nonimmigrant classification, the petitioner must:

- Offer a job that is of a temporary or seasonal nature.
- Demonstrate that there are not enough U.S. workers who are able, willing, qualified, and available to do the temporary work.
- Show that employing H-2A workers will not adversely affect the wages and working conditions of similarly employed U.S. workers.
- Generally, submit a single valid temporary labor certification from the U.S. Department of Labor with the H-2A petition. (A limited exception to this requirement exists in certain “emergent circumstances.” See e.g., 8 CFR 214.2(h)(5)(x) for specific details.) Generally, USCIS may grant H-2A classification for up to the period of time authorized on the temporary labor certification. H-2A classification may be extended for qualifying employment in increments of up to 1 year each. A new, valid temporary labor certification covering the requested time must accompany each extension request. The maximum period of stay in H-2A classification is 3 years. The regulations related to the H-2A program are separate from the grant application or reporting requirements of the FLSP and administered by DOL, DHS, and the State Department.

After USCIS approves Form I-129, prospective H-2A workers who are outside the United States must:

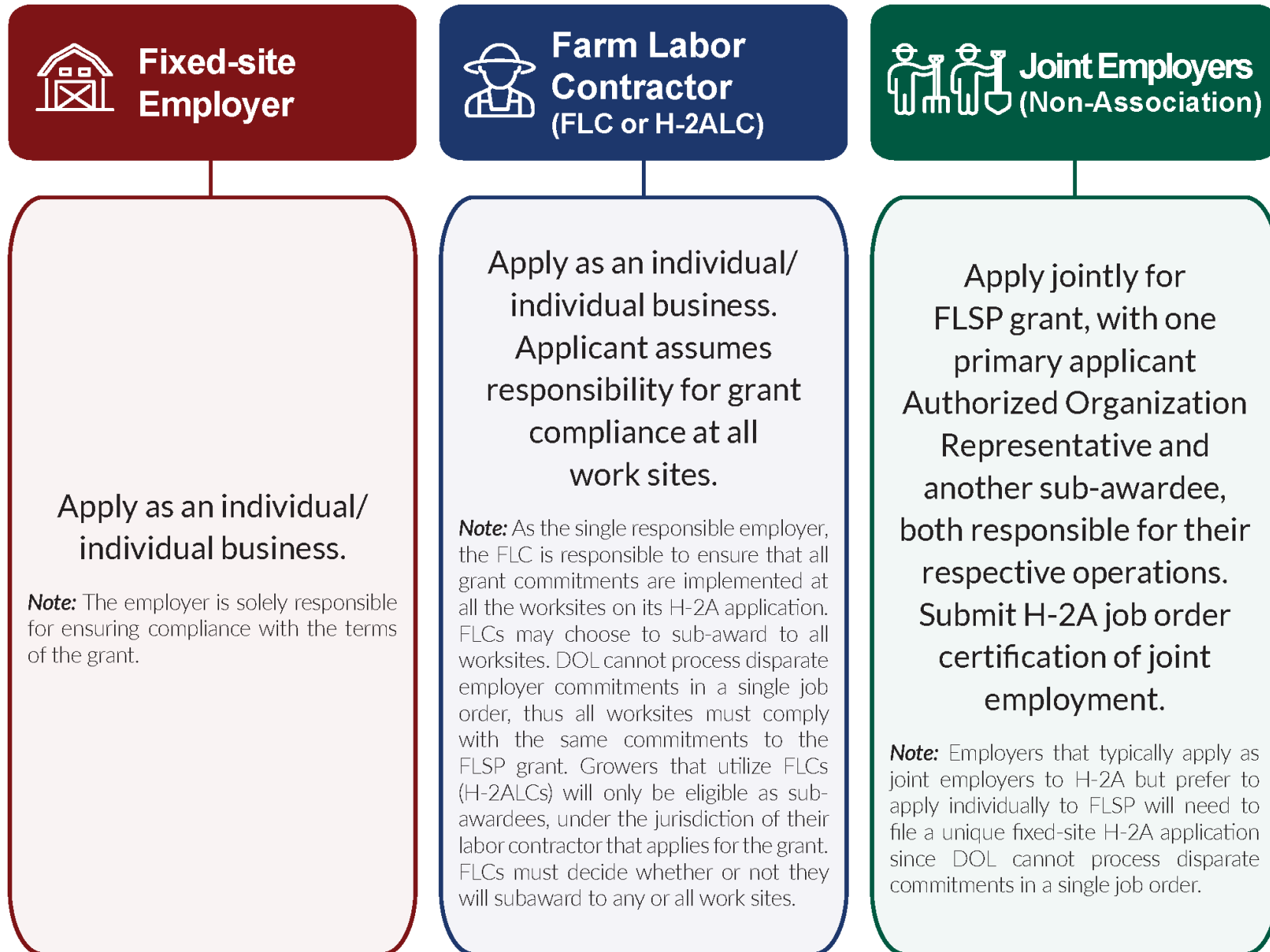
- Apply for an H-2A visa with the U.S. Department of State (DOS) at a U.S. Embassy or Consulate abroad and then seek admission to the United States with U.S. Customs and Border Protection (CBP) at a U.S. port of entry; or
- Directly seek admission to the United States in H-2A classification with CBP at a U.S. port of entry, if a worker does not require a visa in cases where an H-2A visa is not required.

See Department of Homeland Security, U.S. Citizenship and Immigration Services website ([H-2A Temporary Agricultural Workers](#)) for more information.

The FLSP grant program is separate and distinct from the terms and conditions of employment required under the H-2A program, 8 U.S.C. 1188, 20 CFR part 655, subpart B, and 29 CFR part 501. A designation of eligibility or non-eligibility under the FLSP does not determine an entity’s status as an employer under the H-2A program, nor does it create guarantees or rights to a favorable labor certification determination from DOL or DHS. An awardee remains subject to all applicable federal, state, and local laws and remains subject to full enforcement of the H-2A program’s requirements.

3.3 APPLICATION TYPES

Based on your employer type, applicants can apply for FLSP funding in the following ways:





Association Joint Employers



Apply jointly for grant, with one primary applicant (presumably the Association, though it may be any participant willing to assume the Authorized Organization Representative role) plus sub-awardee(s) that have all agreed to shared commitments and compliance on their respective operations. Submit H-2A job order certification of association joint employment.

A **portion** of the members of an association can apply jointly, with one primary applicant (presumably the Association though it may be any participant willing to assume the Authorized Organization Representative role) plus subawardees that have all agreed to shared commitments and compliance on their respective operations. In these instances, a master association could file multiple separate job orders for each group of employers applying to FLSP that have all agreed to shared commitments and compliance on their respective operations.

Note: Individual *members* of associations that prefer to apply to the USDA FLSP as an individual/individual farm business, thus assuming grant responsibility (and benefits) only for their individual operation will need to coordinate with their filing agent (association) to submit a **unique job order**, instead of a joint H-2A application, since DOL cannot process disparate employer commitments in a single job order.

3.4 ELIGIBILITY RESTRICTIONS

Applicants identified in the SAM.gov exclusions database as ineligible, prohibited/ restricted, or excluded from receiving Federal contracts and certain Federal assistance and benefits will not be considered for Federal funding, as applicable to the funding being requested under this Federal program ([2 CFR 200.206\(d\)](#)). Neither foreign entities nor individuals are eligible to apply for this opportunity.

4.0 FUNDING CONSIDERATIONS

4.1 PARTNERSHIPS AND SUB-AWARDEES

Any award made pursuant to this NFO will be made to a single entity. Applicants that apply as “partnerships” or other similar groupings such as a growers’ association or joint employers, must clearly describe the relationship between the primary (lead) applicant and the sub-awardee “partner” parties. See [Section 3.4](#) to learn more about Application Types.

In all but exceptional cases, this relationship will be reflected in the award as an Awardee/Sub-Awardee relationship. Any and all Sub-Awardees must indicate their full commitment to all FLSP requirements, equal to or surpassing the commitments indicated by the Primary applicant and submit a signed Partnership Letter of Commitment. The Primary (lead) applicant has the ultimate responsibility for the financial management, overall planning, organizational management, and implementation of the grant.

Irrespective of Sub-Awardees, applicants may choose to partner with non-Sub-Awardee entities, either for recruitment purposes (i.e., any and all private recruiters), to strengthen their application, and/or to meet the elective requirements in the [Supplemental Employee Commitments Section 1.3](#). If the applicant’s approach includes partnership with a third-party (non-Sub-Awardee) organization, they must include a detailed description of the partnership, including the partnering organization(s)’ mission, and its experience and history of direct collaboration, service, or engagement with agricultural workers. Applicants should describe the nature of the partnership, time period and history of the partnership, frequency of engagement, and other relevant details. The partner organization(s) must also submit a signed letter of commitment.

An applicant organization may not be a party in more than one application. In the case of applications submitted as revisions or corrections to a previously submitted application under this NFO, the agency will consider the last application submitted prior to the established deadline.

4.2 COST SHARING OR MATCHING

There is no cost sharing or matching requirement for this opportunity. There is no competitive advantage to applicants who voluntarily provide a match.

4.3 ALLOWABLE AND UNALLOWABLE COSTS AND ACTIVITIES

This award is subject to the terms and conditions, cost principles, and other considerations described in the [FLSP General Terms and Conditions](#). Applicants that have questions concerning the allowability of costs after reviewing this document should contact USDA staff using the contact information listed under [Section 8.0](#).

5.0 APPLICATION AND SUBMISSION INFORMATION

5.1 ELECTRONIC APPLICATION MATERIALS

Only electronic applications may be submitted via Grants.gov in response to this NFO. Applicants are strongly encouraged to submit their materials early via Grants.gov. For an overview of the Grants.gov application process, see Grants.gov’s [Apply for Grants](#) webpage. This NFO contains the information needed to obtain and complete the required application forms. More information about applying through Grants.gov can be found in **Sections 5.3 and 5.4**.

Applicants can find the opportunity under either the Assistance Listing number “10.978” or the FSLPP Funding Opportunity Number “USDA-FSA-OA-FLSP-G-23-0001”.

5.2 CONTENTS OF AN APPLICATION SUBMISSION

5.2.1 SF-424 APPLICATION FOR FEDERAL ASSISTANCE

Required. Standard Form (SF)-424 is available via the opportunity at Grants.gov. Most information blocks on the required form are either self-explanatory or explained in the instructions. However, applicants must use the following supplemental instructions associated with specific blocks on form SF-424.

Block	Instructions
#1 Type of Submission	Application
#2 Type of Application	New
#4 through #7	Not required
#8c Organizational DUNS or New Unique Entity Identifier (UEI)	<p>Applicant UEI for the Organization submitting the application.</p> <p>NOTE: Applicants that apply for a grant must be capable of managing and monitoring Federal funds and project activities and outcomes. Recipients <u>cannot</u> transfer the award to another recipient organization once a grant is awarded (you may not apply under one UEI number and switch to another later). Refer to section.</p>
#8d Address	Enter the organization street address as it appears in SAM.gov. P.O. Boxes not accepted. Enter a 9-digit zip code.
#10 Name of Federal Agency	FSA, USDA - This will auto-populate.
#11 Assistance Listing Number	10.978 - This will auto-populate.
#12 Funding Opportunity Number	USDA-FSA-OA-FLSP-G-23-0001 - This will auto-populate.
	Ensure you are applying for the correct grant program.
#13 Competition Identification Number	Not applicable
#14 Areas Affected by Project	Enter cities, counties, states affected by project
#15 Descriptive Title of Applicant’s Project	Provide a short description of the project.
#16a Congressional Districts for Applicant	Enter the Congressional district where your main office is located.
#16b Congressional Districts for Program/Project	Enter the Congressional district where your project will be implemented. Write “All” if the projects will be implemented in more than one location.

Block	Instructions
#17 Proposed Project Start Date and End Date	Provide proposed start and end dates. These are subject to change based on contingencies discussed in this NFO.
#18 Estimated Funding – Federal	Total Federal award requested.
#18b Estimated Funding – Applicant	Not applicable.
#19 Is Applicant Subject to Review by State Under Executive Order 12372 Process.	Program is not subject to Executive Order 12372 .

5.2.2 PROJECT ABSTRACT (EXECUTIVE) SUMMARY

Required. The Project Abstract Executive Summary must be submitted in Grant.gov; this summary should be the same as the Question 10 in the “[FLSP Project Narrative Form](#)”. In this summary, the applicant must describe, in 250 words or less, their FLSP activities, including key Employer Plans and Practices and—if applicable—Supplemental Employee Commitments, and key partners or collaborators. Applicants should provide a clear and concise description of the potential impact and/or challenges addressed their proposal. This summary will be made available to the public. *USDA recommends completing this summary after completing the entire application.*

5.2.3 APPLICATION PROJECT NARRATIVE FORM

Required. All applicants for all project types are required to prepare and submit a narrative using the FLSP Project Narrative Form. The form and instructions are available on the “[How do I Apply for an FLSP Grant](#)” webpage. The Project Narrative must clearly describe the impact on the operation, description of Employer Plans and Practices, and description of the applicant’s plan for each Supplemental Employee Commitment to which the applicant has committed. An application will not be funded if it does not adequately address each of the three priorities outlined for the program in the *Notice of Funding Opportunity Summary* above and if it does not meet all regulatory requirements of the H-2A program.

DO NOT modify the FLSP Project Narrative Form. Evaluation points will be deducted if the Project Narrative Form is modified. Applicants must submit the FLSP Project Narrative Form as a PDF and attached to the Grants.gov application package using the “Project Narrative Attachment Form” link on the application package. Handwritten applications or applications submitted in a format other than PDF will not be accepted. Prior to submitting the application to Grants.gov, be sure to accept all tracked changes and/or mark-up edits.

5.2.4 SIGNED PARTNERSHIP OR SUB-AWARDEE LETTERS

Required for some applicants. Applications that involve a partnership(s) and/or Sub-Awardee must include a signed letter of commitment, detailing the description of the partnership, from each entity. The “*Partnership Letter Template*” is available on the “[How do I Apply for an FLSP Grant](#)” webpage. See [Section 4.1](#) for more details on partnerships.

5.2.5 RECRUITER LETTER OF COMMITMENT

Required for some applicants. All applicants that intend to utilize a non-governmental (private) recruiter must include a signed letter of commitment, with the recruiter’s written responses to all questions about

recruitment practices. The “*Recruiter Letter Template*” is available on the “[How do I Apply for an FLSP Grant](#)” webpage. For more detail on recruiter level evaluation criteria, see [Section 6.0](#).

5.2.6 CONTRACT OR EVIDENCE OF PARTICIPATION

Required for some applicants. Any applicants engaged in a worker-driven social responsibility program or collective bargaining agreement must submit evidence of their contract, or communication from the WSR program or union that they are in good standing.

5.3 REGISTER IN [GRANTS.GOV](#)

The [applicant organization registration process](#) can take up to four weeks to complete. Therefore, complete your registration allowing enough time to ensure it does not impact your ability to meet required application submission deadlines.

- 1) *Obtain a Unique Entity Identifier (UEI):* All entities applying for funding, including renewal funding, must have a Unique Entity Identifier from SAM.gov. Applicants must enter the UEI in the data entry field labeled "Organizational UEI" on the SF-424 form: <https://sam.gov/content/entity-registration>
- 2) *Register with SAM:* In addition to having a UEI number, organizations applying online through Grants.gov must register with the [System for Award Management \(SAM\)](#). Current SAM.gov registrants have already been assigned their Unique Entity Identifier (UEI) and can view it within SAM.gov. All organizations must register with SAM to apply online. Failure to register with SAM will prevent your organization from applying through Grants.gov. **SAM.gov accounts must be updated annually, and your organization must have an active SAM.gov account to submit your application to Grants.gov.**
- 3) *Register with Grants.gov:* The next step in the registration process is to [create an account with Grants.gov](#). Applicants must know their organization's UEI number to complete this process. Completing this process automatically triggers an email request for applicant roles to the organization's E-Business Point of Contact (EBiz POC) for review. The EBiz POC is a representative from your organization who is the contact listed for SAM. To apply for grants on behalf of your organization, you will need to request the Authorized Organizational Representative (AOR) role.
- 4) *Authorize Grants.gov Roles:* After creating an account on Grants.gov, the EBiz POC receives an email notifying him or her of your registration and request for roles. The EBiz POC will then log in to Grants.gov and [authorize the appropriate roles](#), which may include the AOR role, thereby giving you permission to complete and submit applications on behalf of the organization. You will be able to submit your application online any time after you have been approved as an AOR.
- 5) *Track Role Status:* After registering with Grants.gov and authorizing the applicant AOR, Grants.gov allows you [to track your status](#).
- 6) *Electronic Signature:* When applications are submitted through Grants.gov, the name of the organization's AOR who submitted the application is inserted into the signature line of the application, serving as the electronic signature. The EBiz POC **must** authorize individuals who are able to make

legally binding commitments on behalf of the organization as an AOR; **this step is often missed, and it is crucial for valid and timely submissions.**

5.4 SUBMIT AN APPLICATION

Submit an Application via Grants.gov: Applicants can apply using Grants.gov Workspace. Workspace is a shared, online environment where members of a grant team may simultaneously access and edit different web forms within an application. For each funding opportunity announcement (FOA), an applicant creates individual instances of a workspace.

- 1) *Create a Workspace:* This allows you to complete your Workspace online and route it through your organization for review before submitting.
- 2) *Complete a Workspace:* Add participants to the workspace, complete all the required forms, and check for errors before submission.
 - a. *Adobe Reader:* If you decide not to apply by filling out the webforms, you can download individual PDF forms in Workspace so that they will appear similar to other Standard or USDA forms. The individual PDF forms can be downloaded and saved to your local storage device, network drive(s), or external drives, and then accessed through Adobe Reader. NOTE: You may need to visit the [Adobe Software Compatibility page on Grants.gov](#) to download the appropriate version of the software. There is no cost for Adobe Reader Software.
 - b. *Mandatory Fields in Forms:* Fields marked with an asterisk and a different background color are mandatory fields you must complete to successfully submit your application.
 - c. *Complete SF-424 Fields First:* The forms are designed to fill in common required fields across other forms, such as the applicant name, address, and DUNS number. To trigger this feature, an applicant must complete the SF-424 information first. Once it is completed, the information will transfer to the other forms.
- 3) *Submit a Workspace:* Submit your application through Workspace by clicking the Sign and Submit button on the Manage Workspace page, under the Forms tab. Grants.gov recommends submitting your application package **at least 24-48 hours prior to the close date** to provide you with time to correct any potential technical issues that may disrupt the application submission.

SPECIAL NOTE: Grants.gov **does not** check for USDA required attachments. It is the applicant's responsibility to ensure that all required attachments listed in [Section 5.2](#) are included.

- 4) *Track a Workspace:* After successfully submitting a workspace package, Grants.gov automatically assigns a Tracking Number (GRANTXXXXXXXX) to the package, which will be listed on the Confirmation page generated after submission.

Applicant Support: Grants.gov provides additional [training resources, including video tutorials](#). Applicants may also call the 24/7 toll-free support number 1-800-518-4726, or email support@grants.gov. Grants.gov will issue a ticket number to which you and Grants.gov can refer if the issue is not resolved. For questions related to the specific grant opportunity, contact the persons or individuals mentioned in [Section 8.0](#).

Timely Receipt Requirements and Proof of Timely Submission: All applications must be received by the due date established in [Section 5.6](#). Proof of timely submission is automatically recorded by Grants.gov using an electronic date/time stamp generated when the application is successfully received by Grants.gov. The applicant AOR will then receive an acknowledgement of receipt and a tracking number (GRANTXXXXXXXX) from Grants.gov. Applicant AORs will also receive the official date/time stamp and Grants.gov Tracking number in an email serving as proof of their timely submission.

When USDA successfully retrieves the application from Grants.gov and acknowledges the download of submissions, Grants.gov will electronically acknowledge receipt of the application to the applicant AOR's email address. Again, proof of timely submission shall be an email with the official date/time stamp and Grants.gov tracking number that Grants.gov assigns to your application.

USDA will neither mail paper applications to potential applicants nor accept applications packages by fax, email or postal mail. Applications must be submitted via Grants.gov. Applications received by Grants.gov after the established due date for the program will be considered late and will not be considered for funding.

Ensure that all components are complete before submission. Allow enough time for the application process, as it may take more than one attempt before your application is successfully submitted. To be considered for funding under this opportunity, USDA will not consider any applications received after the deadline, any emails submitted by fax, email, or postal mail and any applications not responsive to requirements of this NFO. USDA may also choose not to consider applications that fail to comply with the required content, format, and page limits, or those that are incomplete.

Special Note for Applicants with Slow Internet Connections. Applicants using slow internet connections, such as dial-up connections, may experience significantly longer transmission times when submitting the application on Grants.gov, especially if there are large attachments contained in the upload. Again, Grants.gov will provide either an error message or a successfully received transmission notification via email to the applicant AOR.

5.5 SUBMITTED APPLICATION QUALIFICATION

Your application may **not be reviewed or considered for funding** if it is:

- Received by Grants.gov after the submission deadline.
- Submitted via any method other than through [Grants.gov](#).
- Submitted to the wrong grant program.
- Not responsive to the requirements of this NFO (eligibility, incomplete application, not providing all required documents, etc.)

Applications will be subject to the [USDA AMS Late Applications, Denials and/or Appeal Procedures \(pdf\)](#).

5.6 SUBMISSION DATE AND TIME

Applications must be submitted electronically through Grants.gov. Ensure that all components of the application are complete before submission. Allow enough time for the application process, as it may take more than one attempt before your application is successfully submitted. Applicants are encouraged to

submit applications at least two weeks prior to the application deadline to ensure they meet all certifications and registrations.

Only applications submitted and validated by 11:59 p.m. Eastern Time on January 03, 2024, on [Grants.gov](https://www.grants.gov) will be accepted. An application submitted or resubmitted after the deadline is late (an application is considered on time at 11:59.59 pm ET, but it is late at 12:00 am ET). Late submissions will not be reviewed or considered and are subject to the [USDA AMS Late Applications, Denials and/or Appeal Procedures \(pdf\)](#).

Grants.gov will provide either an error or a successfully received transmission in the form of an email sent to the applicant with the AOR role attempting to submit the application. The Grants.gov Support Center reports that some applicants end the transmission because they think that nothing is occurring during the transmission process; be patient and give the system time to process the application. For applications successfully transmitted to Grants.gov before the deadline, the designated AOR who submitted the application will receive:

- An acknowledgement of receipt and a tracking number (GRANTXXXXXXXX) from Grants.gov
- An email with the official date/time stamp (this stamp is used to determine if the application was received prior to the deadline) and Grants.gov.
- When the agency successfully retrieves the application from Grants.gov and acknowledges the download of submissions, Grants.gov will also provide an electronic acknowledgment of receipt of the application to the applicant.

If you have trouble submitting an application to Grants.gov, you should FIRST contact the Grants.gov Help Desk to resolve any issues. Keep a record of any such correspondence. See [Section 8.0](#) for Grants.gov contact information.

5.7 INTERGOVERNMENTAL REVIEW

This funding opportunity is not subject to [Executive Order 12372](#), “Intergovernmental Review of Federal Programs.” When completing the SF-424, check block c, “Program is not covered by E.O. 13272.”

5.8 FUNDING RESTRICTIONS

All awards under this program, sub-agreements, and subawards are subject to the [FLSP General Terms and Conditions](#). Applicants that have questions concerning the allowability of costs after reviewing the [FLSP General Terms and Conditions](#) should contact USDA staff using the contact information listed under [Section 8.0](#). For additional information please refer to [2 CFR Part 200, subpart E, Cost Principals](#).

5.9 TECHNICAL ASSISTANCE

USDA will offer no-cost technical assistance (TA) to help applicants navigate a broad range of needs in applying to this grant program, including determining eligibility and desired award level, meeting grant requirements, and navigating U.S.-based recruitment, housing support for workers, and the H-2A program and compliance. While there is no guarantee that applicants who take advantage of the TA provider will be selected for an award, TA providers can assist applicants in framing their proposals in preparation for the peer review. In addition to the grant funding itself, the technical assistance is one of the program’s primary benefits for agricultural employers. For more information on technical assistance available, please visit: www.ams.usda.gov/FLSP.

Technical assistance to Awardees will include support throughout the H-2A recruitment and petition processes. Receiving any TA through USDA, however, does not guarantee the grant of a labor certification from DOL and does not relieve any employer from compliance with enforcement of all applicable federal, state, and local laws, nor does it guarantee approval of any USCIS petitions for nonimmigrant workers. Finally, the USDA FLSP grant application process is separate and distinct from the DOL labor certification application process, and therefore, while providing technical assistance, USDA will not share with DOL any information received from [awardees/employers] while providing technical assistance. Furthermore, any USDA provided TA does not create a safe harbor or any guarantees regarding enforcement.

In addition to program-specific Technical Assistance, Grants.gov provides additional [training resources, including video tutorials](#). Applicants may also call the 24/7 toll-free support number 1-800-518-4726, or email support@grants.gov. Grants.gov will issue a ticket number to which you and Grants.gov can refer if the issue is not resolved. For questions related to the specific grant opportunity, contact the persons or individuals mentioned in [Section 8.0](#).

6.0 APPLICATION REVIEW INFORMATION

6.1 PROJECT EVALUATION CRITERIA

Each application that meets the initial qualification screening requirements will be reviewed and scored competitively using the criteria listed below. Applications will be assessed using a point scoring system.

Alignment with FLSP Goals and complete Narrative Application Form **up to 15 points**

Application’s overall relevance to the FLSP program goal of improving the food and agriculture supply chain resiliency by addressing current labor shortages in agriculture, expanding legal migration pathways, and improving working conditions for farmworkers. Strong scoring applications will address all aspects of the FLSP Application Narrative Form, with the structure of the Narrative Application Form intact.

Responsible Recruitment **up to 20 points**

The extent to which the applicant proposes strong domestic recruitment practices, and H-2A recruitment via government ministries or via registered private recruiter(s) that have communicated strong responsible recruitment practices in their Private Recruiter Letter of Commitment. As applicable, an applicant’s FLSP Narrative Form should clearly communicate:

- **Prior H-2A experience:** Applicant’s past H-2A experience, recruitment countries, and policies under which workers can return the following season. If new to H-2A, reasons why they have chosen to pursue H-2A for the first time.
- **Domestic Recruitment:** Applicant’s methods for U.S.-based recruitment, including demonstrated effort to recruit U.S.-based workers and hire all willing, able, and qualified U.S. workers, and policies under which workers can return the following season.
- **Recruitment from El Salvador, Guatemala, and Honduras and via NCA Government Ministries:** Applicant sufficiently documents whether the entirety of their newly recruited H-2A workforce (non-returning individuals) will be recruited from El Salvador, Guatemala, and Honduras and via the Ministries of Labor (of Ministry of Foreign Affairs El Salvador). Applicants will receive higher scores for hiring greater proportions of their foreign workforce from NCA countries, and further higher scoring for recruiting via the NCA government Ministries.

- **Private Recruiter Commitment to Responsible Recruitment:** If applicant utilizes a private recruiter, the extent to which the attached recruiter letter clearly communicates the capacity and commitment to ethical recruiting and responds to all responsible recruitment questions.

Supplemental Employee Commitments: Although required for Silver and Platinum awards, applications of any award level will be more competitive by committing to additional benefits and protections “a la carte.” Applicants will be evaluated based on demonstration of their capacity to fulfill each selected Supplemental Employee Commitment, with positive outcomes for working conditions and worker well-being. All selected Supplemental Employee Commitments will be evaluated based on the applicant’s description of the benefit and its value in improving working conditions, plus any accountability built into the additional commitments.

See **Table 3** in [Section 1.3](#) and **question 14** on the Applicant Narrative Form.

A. Pay, Benefits and Working Conditions Up to 20 points

- **Employee Engagement.** If commitment involves worker engagement, the review will evaluate outreach to potential participants and how participants are identified/selected. Applications that demonstrate strong systems for sharing worker feedback, while protecting workers from any potential retaliation, will receive higher scores. The review will also consider the extent to which workers can influence outcomes.
- **Documentation, Transparency or Accountability Mechanisms.** Plans will merit higher scores if the application proposes strong mechanisms for accountability and transparency. In the case of payroll related benefits (e.g., overtime, bonus payments, sick leave), the application describes valid documentation and/or communication to workers about such benefits. For commitments that engage workers (e.g., housing maintenance plan, collaborative working group, innovative partnership), the application describes transparency related to identifying participants or feedback systems, and sharing information and/or meeting notes with stakeholders.
- **Partnerships.** Any innovative partnership commitments should thoroughly address all partnership-related questions in the application form. Partner organizations with experience of direct collaboration, service, or engagement with farmworkers, and strong potential to contribute to positive working conditions and worker well-being outcomes will merit higher scores. Signed letters of commitments from partners should clearly communicate the organization’s capacity and commitment to the project proposal, the organization’s mission and experience engaging farmworkers, and note any special contributions, such as: worker-driven approaches, recruitment, retaliation protections, worker education, auditing/monitoring and enforcement, wage benefits, health and safety, etc.
- **Innovation.** Innovative approaches (either expressed as part of Option #6 in **Table 3** or generally *in any commitment*) may merit additional points, based on the applicant’s description of the benefit and its value in improving working conditions and job quality for farmworkers.

B. Partnership Agreements Up to 20 points

- **Description of mechanism and/or partner.** Commitments selected from the Partnership Agreements section will be evaluated based on the applicant’s description of the commitment, its

potential value in improving working conditions for farmworkers. Applications should include history of participation with the partner, and the partner organization’s experience working with farmworkers and demonstrated commitment to worker driven guidance.

- **Evidence of contract or participation.** For applicants that have indicated commitment to participation in a Worker-Driven Social Responsibility (WSR) program or a Collective Bargaining Agreement (CBA) either evidence of a current contract, communication from the WSR program or union that the employer is in good standing, or commitment from the partner organization that a contract/entry date is in process.
- **Neutrality/Access/Voluntary Recognition.** If the applicant has committed to neutrality, access to workers by labor organization representatives, and voluntary recognition, the narrative description will be evaluated based on its indication of how the operation will communicate to employees that they have the fair and free choice to form or join a union. The applicant should answer all questions related to this commitment and clearly describe a) how all worksites will provide and articulate reasonable access to workers (on non-work time and in non-work areas), b) how the applicant’s operation will ensure that no members of their business operation will attempt to influence employees (for or against) from engaging in protected, concerted activities to address or improve working conditions (e.g., no posters/flyers, required meetings discussing workers’ right to organize, no videos, etc.), and c) describe any limits on the number of times union representatives can visit with employees, in what areas, and what time(s) of day.

Description of Employer Practices and Plans **up to 15 points**

The extent to which the application clearly articulates *both* existing employment practices and forthcoming plans that demonstrate commitment to creating a safe, healthy work environment for employees. Applications should discuss relevant challenges that the applicant faces, and any relevant plans for continual improvement, and a clear description of practice and/or plan implementation. Strong scoring applications will include *at least three* of the following related to 1) Heat-related protections; 2) Timekeeping, scheduling, and payroll communication and transparency; 3) Medical access for employees; 4) Employee awareness of, and access to, a trusted complaint and resolution mechanism(s) without retaliation, including any related trainings for management/supervisors; 5) Language accessibility and employee communication. Applicants may include other strong employer practices.

Impact on your Operation **up to 10 points**

The extent to which the application clearly describes how participating in the FLSP program could support the applicant in addressing the challenges they face in the short term and/or long-term. If appropriate, the extent to which the application clearly describes how participation in FLSP may support their efforts to be an employer of choice, access new market or business opportunities, or address other resilience-related challenges and opportunities.

6.2 REVIEW AND SELECTION PROCESS

Step 1: Initial Qualification Screening. Each application is initially reviewed for overall completeness, as well as compliance with eligibility and program requirements as set forth in this NFO. If an application does not meet these requirements, it is removed from consideration.

Step 2: Technical Review. Each application that passes initial screening (Step 1) is evaluated by a panel of independent peer reviewers based on their subject matter expertise. Each reviewer signs a conflict of interest and confidentiality agreement regarding any assigned proposals. The peer review panels evaluate their assigned proposals using instructions prepared by USDA officials. Individual reviewers score applications and then confer with other panel members. The scoring and discussion serve as the basis for making award recommendations to the approving official. The recommendation for awarding and allocating grant funds focuses on strengths and weaknesses of each application.

Step 3: Administrative Review.

USDA will conduct a final administrative evaluation of each review panel’s rankings and recommendations. In addition to the rank and scores, the approving official makes the final funding decision and may prioritize applications that demonstrate how their grant activities align with the goals of the program, geographic diversity, the evaluation criteria in [Section 6.1](#), available funding, and USDA priorities. USDA staff will work with top-ranked applicants to negotiate any revisions as necessary. USDA will also assess an organization’s ability to account for the use of Federal funds and monitor the performance associated with these monies using the guidance provided by [2 CFR § 200.206\(c\)](#).

7.0 FEDERAL AWARD ADMINISTRATION INFORMATION

7.1 FEDERAL AWARD NOTICES

The agency will provide notice that an application has been selected before it makes the Federal award. As such, the selection notification is not an authorization to begin performance. Any pre-award costs incurred by the Awardee will not be reimbursed. The Notice of Grant and Agreement Award (ADS-093) signed by the authorized agency official is the only authorizing document and will be provided electronically to the entity’s authorized organizational representative for signature. Both successful and unsuccessful applicants will be notified of the award decision via letter.

While USDA will announce the award selections, award obligation is contingent upon meeting the criteria referenced in [Section 2.4](#).

7.2 ADMINISTRATIVE AND NATIONAL POLICY REQUIREMENTS

All project funds will be used in accordance with [2 CFR § 200](#) and the [FLSP General Terms and Conditions](#).

7.3 REPORTING AND PAYMENT SCHEDULE

Reporting and award closeout requirements are included in [FLSP General Terms and Conditions](#). FLSP payments are made in accordance with achieving key milestones of participation in the FLSP program. Each payment period is roughly associated with estimated minimum costs of participation in FLSP, including the cost of time and risk management for applicants and their operations, including any sub-awardee(s) and partners. For all awardees, funds will be released according to three distinct payment periods.

USDA will monitor recipient progress on commitments made in the approved Project Narrative Application, including relevant documentation to support commitments, a summary of conclusions and lessons learned by the Awardee about how FLSP impacted their ability to recruit and retain workers, impact on their business planning and solvency, the productivity effects of the production season, any new market opportunities that arose during the grant performance period, and the impact of USDA-provided technical

assistance (e.g., TA related to housing/financing, H-2A application process, ease of compliance, etc.). USDA will collect this information through interim and final performance and financial reports. More information is available in the [FLSP General Terms and Conditions](#).

Payment period, amount		Milestones	Reporting and/or Confirmation requirement(s)
1	50% of award total	Successful H-2A application and recruitment. Launch of worker contracts and completion of KYRR training.	<ul style="list-style-type: none"> • Copy of awardee’s accepted Job Order (Form 790-A) from their respective State Workforce Agency • Copy of submitted I-129 form • Confirmation of completed Know Your Rights and Resources (KYRR) training • Confirmation of recruitment
2	25% of award total	Completion of FLSP commitments in the initial project production season, including research participation.	Awardee’s FLSP Interim Report
3	25% of award total	Successful project completion, including second year of research participation.	Awardee’s FLSP Final Report

More information on cost allowability and performance reporting is found in the [FLSP General Terms and Conditions](#). Applicants that have questions after reviewing the FLSP General Terms and Conditions should contact the FLSP staff provided in [Section 8.0](#).

7.4 AUDIT REQUIREMENTS

As required in 2 CFR Part 200, Subpart F Audit Requirements, all U.S. states, local governments, Federally recognized Indian tribal governments, and non-profit organizations expending \$750,000 or more in Federal award funds in a fiscal year must submit a Single Audit report for that year through the Federal Audit Clearinghouse’s Internet Data Entry System.

8.0 CONTACT INFORMATION

After closely reviewing this NFO in its entirety, applicants and other interested parties may contact FLSP support staff by e-mail at FLSPgrants@ams.usda.gov. For additional information, please refer to the FLSP website (www.ams.usda.gov/flsp), or contact the [FLSP Technical Assistance Provider](#).

All questions regarding Grants.gov technical assistance must be directed to Grants.gov’s Applicant Support: <http://www.grants.gov/web/grants/support.html>.

All questions regarding SAM.gov technical assistance must be directed to SAM.gov’s Service Desk: <https://sam.gov/content/help>.

9.0 OTHER INFORMATION

9.1 DEFINITIONS

- **Agriculture.** Agriculture means farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, and as otherwise defined in 20 CFR 655.103(c).
- **Agricultural Employer.** For the purposes of this program “agricultural employers” are defined per 29 CFR 501.3 and 20 CFR 655.103(b) as “A person (including any individual, partnership, association, corporation, cooperative, firm, joint stock company, trust, or other organization with legal rights and duties) that: (i) Has an employment relationship (such as the ability to hire, pay, fire, supervise, or otherwise control the work of employee) with respect to an H–2A worker or a worker in corresponding employment; or (ii) Files an Application for Temporary Employment Certification other than as an agent; or (iii) Is a person on whose behalf an Application of Temporary Employment Certification is filed.”
- **Agricultural Employee** is used interchangeably with “**worker,**” “**agricultural worker,**” “**farm labor worker,**” or “**farmworker,**” in this NFO and is defined as an employee performing agricultural labor or services as defined under the H-2A regulations at [20 CFR 655.103\(c\)](#). For the purposes of this program, this does not include supervisory agricultural employees.
- **Agricultural Association.** Any nonprofit or cooperative association of farmers, growers, or ranchers (including, but not limited to, processing establishments, canneries, gins, packing sheds, nurseries, or other similar fixed-site agricultural employers), incorporated or qualified under applicable State law, that recruits, solicits, hires, employs, furnishes, houses, or transports any worker that is subject to 8 U.S.C. 1188. An Agricultural Association may file H-2A applications and act as the agent of an employer, or may act as the sole or joint employer of any worker subject to 8 U.S.C. 1188.
- **Collective Bargaining Agreement (CBA).** A written, legally enforceable contract governing the terms and conditions of employment at one or more worksites that has been negotiated and agreed upon by an employer and a union made up of workers.
- **Farm Labor Contractor (FLC) or H–2A Labor Contractor (H–2ALC).** Any person who meets the definition of employer under this subpart and is not a fixed-site employer, an agricultural association, or an employee of a fixed-site employer or agricultural association, as those terms are used in this subpart, who recruits, solicits, hires, employs, furnishes, houses, or transports any worker subject to 8 U.S.C. 1188, 29 CFR part 501, or this subpart.
- **Fixed-Site Employer.** Any person engaged in agriculture who meets the definition of an employer, as those terms are defined in this subpart; who owns or operates a farm, ranch, processing establishment, cannery, gin, packing shed, nursery, or other similar fixed-site location where agricultural activities are performed; and who recruits, solicits, hires, employs, houses, or transports any worker subject to 8 U.S.C. 1188, 29 CFR part 501, or this subpart as incident to or in conjunction with the owner's or operator's own agricultural operation.
- **Joint Employers.** Any employer that jointly file a joint employer Application for Temporary Employment Certification under § 655.131(b) are, at all times, joint employers of all the H–2A workers sponsored under the Application for Temporary Employment Certification and all workers in corresponding

employment. This means that the Joint Employer may file an Application for Temporary Employment Certification on behalf of one or more other employers seeking to jointly employ H-2A workers in the same area of intended employment. Employers that file jointly for H-2A must apply together for the FLSP with their fellow joint employers.

- **Ministries.** This refers throughout the NFO and corresponding documents to the Ministry of Foreign Affairs in El Salvador, Ministry of Labor in Guatemala, and Ministry of Labor in Honduras.
- **Production Season.** For the purposes of this grant program, production season is defined as one annual cycle of agricultural production. In the case of planted crops, this typically aligns with the date planting begins until harvest, and for perennial crops, from the date the crop begins to grow (comes out of dormancy) until the crop becomes inactive (enters dormancy). For the purpose of this grant, the production season is the one for which you are submitting your H-2A job order and for a period of which is reasonable and customary.
- **Worker-driven Social Responsibility (WSR) Program.** In agriculture a WSR program must have legally-binding agreements between food retailer(s) and worker organization(s) requiring purchasing preference for participating agricultural employers in good standing with the WSR Program. A WSR Program must have the following implementation and enforcement mechanisms to effectively investigate and enforce compliance with laws applicable to farm employees in the relevant jurisdiction, including but not limited to the Fair Labor Standards Act, the Migrant and Seasonal Agricultural Worker Protection Act, the Occupational Safety and Health Act, Title VII of the Civil Rights Act of 1964, and federal laws governing the recruitment of temporary nonimmigrant agricultural (H-2A) workers. Such mechanisms must include, at a minimum: 1) Independent third-party audits, 2) Enforceable third-party complaint mechanism, 3) Farmworker Education.

9.2 FREEDOM OF INFORMATION ACT (FOIA)

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

9.3 GOVERNMENT OBLIGATION

The Federal Government is not obligated to make any Federal award as a result of this opportunity. Only authorized federal officials can bind the Federal Government to the expenditure of funds. Any award made pursuant to this NFO may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

9.4 PAPERWORK REDUCTION ACT

According to the Paperwork Reduction Act of 1995, an Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The valid OMB control number for this information collection is 0581-0240. The time required to complete this information collection is estimated to average 9.75 hours per response, including the time for reviewing instructions, searching existing data sources, gathering, and maintaining the data needed, and completing and reviewing the collection of information.

10.0 U.S. DEPARTMENT OF AGRICULTURE NON-DISCRIMINATION STATEMENT

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

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

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

- **mail:**
U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410
- **fax:** (202) 690-7442; or
- **email:** program.intake@usda.gov

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