

Program Notice

FGIS-PN-26-01

Nov 18, 2025

OFFICIAL AGENCY PARTICIPATION IN INSPECTION AND WEIGHING RESEARCH AND DEVELOPMENT ACTIVITIES

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1. PURPOSE

The Agricultural Marketing Service's (AMS) Federal Grain Inspection Service (FGIS) is clarifying policy on the participation of official inspection personnel, and official agencies (OAs), which include State or private agencies designated and or delegated by FGIS to provide official inspection and weighing services under the [United States Grain Standards Act \(USGSA\)](#), as well as cooperators under the [Agricultural Marketing Act of 1946 \(AMA\)](#), in performing research, development, demonstration, or evaluation activities (R & D type activities). These activities are intended to support modernization and improvement of official sampling, inspection, grading, testing, and weighing methods and procedures.

Such activities may include participating in the evaluation and testing of unapproved new or novel inspection and weighing equipment or the establishment of new or improved inspection and weighing methods and procedures.

2. BACKGROUND

FGIS is committed to the modernization and continual improvement of official sampling, inspection, grading, testing, and weighing – equipment, methods, and procedures. New technologies are currently being introduced at an exponential rate, mainly due to the advancements and use of artificial intelligence (AI), automation, and advanced machine learning capabilities. As more and more of these technologies are introduced, the demand for information and data required to evaluate these devices is increasing.

Official agencies (OAs) are in a unique position to offer their assistance in activities like field testing, methods development, and data collection that can be used for these evaluation purposes, pilot projects, and modernization initiatives.

3. POLICY

OAs are authorized to participate in the performance of R & D type activities with the written approval of FGIS, and in accordance with the following:

- a. Endorsement Disclaimer. OA participation in performing R & D type activities does not imply or constitute FGIS endorsement of any company, product, service, or technology. Participation does not guarantee later FGIS acceptance or approval for use in official services. OAs must avoid any statements or actions that suggest endorsement or implied approval by FGIS, and results obtained or involvement under this notice must not be used in promotional or marketing materials.
- b. Final Approving Authority. All inspection and weighing equipment, methods, and procedures used for official sampling, inspecting, testing, or weighing grain or commodities must be reviewed, approved, and authorized by FGIS prior to official use. This approval authority rests solely with FGIS and cannot be delegated to OAs or other entities. Participation by OAs in R & D type activities does not substitute for this process and no equipment, method, or procedure may be used to perform official services unless FGIS approval has been granted.

- c. Third-party Agreements Prohibited. Agreements to conduct R & D type activities must be made directly with the individuals or companies that developed and own the rights to the technology or methods under evaluation. OAs may not enter into agreements with third parties who lack ownership or development rights, and all agreements must clearly identify the parties, scope of activity, and responsibilities. FGIS may request a copy of any agreement to verify compliance.
- d. Conflict of Interest. FGIS will review each request to determine if a conflict of interest exists under the [United States Grain Standards Act \(USGSA\)](#) or [Agricultural Marketing Act of 1946 \(AMA\)](#).
- e. Applicant Specific Service Points. OAs must not conduct R & D type activities at applicant specific service point locations without the written approval of the facility owner. Applicant specific service points are reserved primarily for the purpose of providing official services for individual applicants at their respective locations. Participation in R & D type activities at such points should be limited, clearly authorized in writing, and conducted in a manner that does not interfere with the timely delivery of official services. Approvals must include a start and end date and cannot exceed the duration of the approved R & D type activity. (i.e., no blanket or perpetual approvals). If additional time is required to complete the activity and the initial approval has expired, it may be extended or renewed with the written authorization of the facility owner. A copy of the written extension or renewal must be provided to FGIS.
- f. Providing Samples for Evaluation. Except as authorized in sections 3 (g.) and (h.), individuals or companies requesting R & D type services from OAs must obtain and supply their own samples of grain and/or commodities for these purposes.
- g. Use of Official File Samples. OAs must not use official file samples for the purpose of conducting R & D type activities without prior written approval from the applicant for service and/or owner of the grain or commodity. Approvals must include a start and end date and cannot exceed the duration of the approved R & D type activity (i.e., no blanket or perpetual approvals). If additional samples are required to complete the activity and the initial approval has expired, it may be extended or renewed with the written authorization of the facility owner. A copy of the written extension or renewal must be provided to FGIS.

Additionally, official file samples must not be used for conducting R & D type activities before the minimum file retention period has elapsed and the final disposition has been determined (e.g., returned to the applicant for service if requested).

A used work portion from an official sample may be utilized for R & D type activities provided:

1. All official factors requested by the applicant for service have been performed and the results have been recorded on the work record.

2. The used work portion was to be discarded following the official inspection.
 3. The applicant for service or owner of the grain or commodity has authorized the use of the official sample for these purposes in writing.
 4. Only the factor results that fall within the scope of the approved R & D type activity may be released to the requestor. Any release of additional information to the requestor about the origin or disposition of the official lot or sample outside of the approved scope (e.g., proprietary business information) is strictly prohibited.
- h. Collecting Additional Samples. OAs must not collect additional sample or samples for the purposes of conducting R & D type activities without the prior written approval of the applicant for service and/or owner of the grain or commodity. Additional samples collected for R & D type activities must be identified as such and must be segregated from samples collected for official services. Approvals must include a start and end date and cannot exceed the duration of the approved R & D type activity (i.e., no blanket or perpetual approvals). If additional samples are required to complete the activity and the initial approval has expired, it may be extended or renewed with the written authorization of the facility owner. A copy of the written extension or renewal must be provided to FGIS.
- i. Collecting Fees. Any fees charged or monies collected for the purposes of conducting R & D type activities must be fully disclosed in the approval request submitted to FGIS. When participating in an FGIS administered program, pilot, or agreement, OAs will not collect fees or receive monetary compensation unless funding has been specifically authorized for that purpose.
- j. Prioritization of USGSA and AMA Services. OAs participating in R & D type activities must ensure providing official services remains their top priority. Participating in these activities must not impact an OA's ability to provide official services in an accurate and timely manner or cause the untimely issuance of official results and certificates. An OA's obligations under delegation, designation, and/or AMA cooperative service agreement shall take precedence over R & D type activities. If FGIS determines that participation in R & D type activities has adversely affected an OA's ability to provide official services, approval to continue participation may be withdrawn.
- k. Unofficial Results. Any factor results obtained or determined using unapproved new or novel equipment and/or methods will not be issued on official work records and certificates.
- l. Equipment Placement. Unapproved new or novel equipment should not be placed in the same area as official equipment used for providing official services and must be clearly marked or labeled "Not for Official Use". OAs must take all necessary precautions to ensure these devices are not mistakenly used by personnel to issue results on official work records or certificates.

Note: This may not be possible at all locations depending on availability of space. In those situations, OAs must take additional precautions or security measures (e.g., authorized access, password protection, etc.) to ensure unapproved equipment is not used to issue results on official work records or certificates.

- m. Release of Information. Only the factor results pertaining to the scope of the approved R & D type activity may be released to the requestor. Releasing, divulging, or making known in any manner, any facts or additional information acquired pursuant to the USGSA including the origin or disposition of any official lot or sample outside of the approved scope (e.g., proprietary business information) is strictly prohibited without the consent of the applicant for service. ([§800.26 \(b\) Disclosure of business information](#)).

4. REQUESTING APPROVAL

OAs must request and receive approval in writing from FGIS prior to engaging in R & D type activities. When requesting approval, OAs must provide the following:

- a. The name of the OA.
- b. The name of the individual or company requesting the R & D type activity.
- c. The names of any additional interested persons or stakeholders in the individual or company requesting the R & D type activity, involved in the marketing of grain and/or agricultural commodities/products.
- d. A detailed description of the requested R & D type activity.
- e. The defined scope and limitations of the requested R & D type activity.
- f. Disclosure of any fees that will be charged by the OA and/or monetary arrangements between the OA and the requestor.
- g. The duration the OA will be engaged in the R & D type activity.
- h. A copy of any written agreement between the OA and the requestor.
- i. A copy of any written authorizations provided in accordance with sections 3 (e.), (g.) and (h.).
- j. Any additional information requested by FGIS that may assist in approving or denying the request.

The FGIS Quality Assurance and Compliance Division will review all OA approval requests and provide a recommendation to the Office of the Deputy Administrator (ODA). ODA will make the final determination to approve or deny the request.

Submit approval requests to: FGISQACD@usda.gov.

OAs must retain copies of all FGIS approvals in their agency records for five years.

Note: OAs must notify FGIS in writing if there are any changes or updates to the scope, duration, or terms after approval has been granted.

5. FILING INSTRUCTIONS

An electronic version of this notice is available on the AMS website. Maintain a printed copy of this notice at locations where physical copies are required in accordance with FGIS Program Notice PN-25-04 Issuance Retention Policy, when applicable.

6. QUESTIONS

Please direct all questions to the FGIS Policies, Procedures, and Market Analysis Branch at FGISPoliciesProceduresMarketAnalysisBranch@usda.gov.