USDA Agricultural Marketing Service
U.S. DEPARTMENT OF AGRICULTURE

AMS Transportation and Marketing Program

Grants and Cooperative Agreements Conflict of Interest Policy

This document outlines the U.S. Department of Agriculture's (USDA) Agricultural Marketing Service (AMS) Transportation and Marketing Program (TM) Conflict of Interest Policy for its financial federal assistance actions and awarding agency employees in accordance with applicable laws, terms and conditions of the award and federal regulations 2 CFR 200.112 and 2 CFR 400.2. AMS TM is providing this two-part policy for (1) recipients and subrecipients, and (2) USDA review panelists.[1]

DEFINITIONS

Conflict of Interest (general): A conflict of interest occurs when a recipient, federal employee or contractor, or reviewer has a personal or business interest that conflicts with their professional obligations or responsibilities to the organization.

Recipient: An entity that receives a federal award directly from a federal agency to carry out an activity under a federal program. The term recipient does not include subrecipients or individuals that are participants or beneficiaries of the award.

Subrecipient: An entity that receives a subaward from a pass-through entity to carry out part of a federal award. The term subrecipient does not include a beneficiary or participant. A subrecipient may also be a recipient of other federal awards directly from a federal agency.

Organizational Conflicts of Interest: These conflicts occur when an entity/recipient has a relationship with a parent company, affiliate, or subsidiary organization and the recipient is unable or appears to be unable to be impartial in conducting a federal award action involving that related organization.

AMS GRANTS AND AGREEMENTS RECIPIENTS AND SUBRECIPIENTS

To comply with federal conflict of interest regulation at 2 CFR 200.112 and USDA's conflict of interest regulation 2 CFR 400.2, AMS recipients must abide by the following:

- Disclose in writing any potential conflicts of interest to the USDA awarding agency or pass-through entity if applicable.
- Maintain written standards of conduct covering conflicts of interest and governing the performance of their employees in the selection, award, and administration of Federal awards.
    - No employee, officer, or agent may participate in the selection, award, or administration of a federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, agent, or any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties

[1] In rare circumstances USDA employees may serve as review panelists and must comply with the requirements set forth at 5 CFR part 2635, as well as 5 CFR part 8301 as stated in 2 CFR 400.2.

indicated herein, has a financial or other interest in or a tangible personal benefit from an entity considered for a Federal award.

  - The recipient may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the recipient.
  - If the recipient has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest.
- Establish internal controls that include, at a minimum, procedures to identify, disclose, and mitigate or eliminate identified conflicts of interest.

Recipients are responsible for notifying the respective USDA awarding agency, in this case AMS TM, in writing of any conflicts of interest that may arise during the period of performance of an award, including those which have been reported by subrecipients, no later than 5 calendar days following discovery. Upon receipt of such a disclosure, respective USDA awarding agencies must review and make a determination in writing if a potential or real conflict of interest exists and develop a plan for addressing or mitigating the issue, which may include remedies found at 2 CFR 200.339. USDA awarding agencies must make a determination within 30 calendar days of disclosure unless a longer period of time is necessary due to the complexity of the situation.

REVIEW PANELISTS FOR AMS GRANT APPLICATIONS

AMS TM engages individuals to participate in the technical and merit review of grant, and when deemed necessary, agreement applications. All reviewers, including external peer reviewers, USDA and USDA/AMS employees, and federal contractors engaged in grant applications merit review processes must abide by this Conflict of Interest Policy.[2]

Independent Peer Reviewers[3] must sign a *Conflict of Interest and Confidentiality Statement* affirming that the individual is free from potential conflict of interest and will maintain confidentiality. Reviewers are responsible for notifying the respective USDA awarding agency in writing of any conflicts of interest that may arise before or during the technical review process of an application, including those discovered after assignments are made. Individuals with conflicts of interest must not participate in the evaluation, discussion, or scoring of proposals.

A conflict of interest may exist when a reviewer has:

- A financial interest in the applicant organization or in the direct or indirect outcome of the review.
- Been associated with an applicant organization within the past two years as an employee, officer, director, consultant, advisor, collaborator, co-author, or partner; and/or, been associated with key

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[2] This Conflict of Interest Policy does not supersede the USDA's established ethics regulations regarding employee conduct. All USDA employees must continue to adhere to the ethical standards and guidelines as outlined in the relevant CFR parts referenced above. These standards serve as the foundation for maintaining integrity and public trust in all USDA activities and operations. Similarly, it does not supercede specific requirements that other AMS programs may have.

[3] Independent experts are chosen to evaluate, score, and comment on a grant application. Panelists use their knowledge and expertise to help determine which proposals best meet the program goals and should move further into steps for funding.

personnel listed, such as with any arrangement for current or future employment with the applicant or related organization.

- A close personal or professional relationship that could be seen to affect impartial judgment.

Reviewers are responsible for notifying AMS TM in writing immediately or no later than 3 calendar days following discovery of a potential or real conflict. Upon receipt of such a disclosure, the respective USDA awarding agency, in this case typically AMS TM, must review and make a determination in writing within 5 calendar days as to whether a conflict exists and how it will be resolved. Possible actions may include the reassignment of the application to another panel, replacement of panelist, or other remedies to ensure impartiality. AMS TM will document and retain all conflict disclosures and resolutions as part of the official review record.

REFERENCES

- 2 CFR 200.112 Conflict of Interest
- 2 CFR 400.2 Department of Agriculture Conflict of Interest
- 2 CFR 200.318(c) General Procurement Standards Conflict of Interest
- 2 CFR 200.339 Remedies for Noncompliance
- 5 CFR Part 2635 Standards of Ethical Conduct for Employees of the Executive Branch
- 5 CFR Part 8301 Supplemental Standards of Ethical Conduct for Employees of the Department of Agriculture

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