

NATIONAL INSTITUTE OF FOOD AND AGRICULTURE
Small Business Innovation Research
(SBIR) Program
Terms and Conditions
May 2017

Table of Contents

<u>1.</u>	<u>APPLICABILITY</u>	<u>2</u>
<u>2.</u>	<u>ORDER OF PRECEDENCE.....</u>	<u>2</u>
<u>3.</u>	<u>ABOUT THE DOCUMENT</u>	<u>2</u>
<u>4.</u>	<u>APPLICABLE REGULATIONS AND NATIONAL POLICY REQUIREMENTS</u>	<u>2</u>
<u>5.</u>	<u>FLOW-DOWN OF REQUIREMENTS UNDER SUBAWARDS.....</u>	<u>7</u>
<u>6.</u>	<u>DEFINITIONS.....</u>	<u>7</u>
<u>7.</u>	<u>RECIPIENT AND USDA AGENCY CONTACTS.....</u>	<u>8</u>
<u>8.</u>	<u>PRIOR APPROVAL REQUIREMENTS.....</u>	<u>9</u>
<u>9.</u>	<u>INDIRECT COSTS</u>	<u>16</u>
<u>10.</u>	<u>ALLOWABLE COSTS</u>	<u>17</u>
<u>11.</u>	<u>UNALLOWABLE COSTS.....</u>	<u>17</u>
<u>12.</u>	<u>LIMIT OF FEDERAL LIABILITY.....</u>	<u>18</u>
<u>13.</u>	<u>SBIR REPORTING REQUIREMENTS</u>	<u>18</u>
<u>14.</u>	<u>PAYMENTS</u>	<u>28</u>
<u>15.</u>	<u>COMMERCIALIZATION ASSISTANCE TRAINING PROGRAM</u>	<u>29</u>
<u>16.</u>	<u>ACKNOWLEDGMENT OF USDA NIFA SUPPORT AND DISCLAIMER</u>	<u>30</u>
<u>17.</u>	<u>RELEASE OF INFORMATION</u>	<u>31</u>
<u>18.</u>	<u>SHARING OF FINDINGS, DATA, AND OTHER PROJECT PRODUCTS</u>	<u>31</u>
<u>19.</u>	<u>DATA COLLECTION</u>	<u>31</u>
<u>20.</u>	<u>NONEXPENDABLE EQUIPMENT</u>	<u>32</u>
<u>21.</u>	<u>INTEREST INCOME</u>	<u>32</u>

22.	<u>RECORD KEEPING</u>	32
23.	<u>REPORTING SUBAWARDS AND EXECUTIVE COMPENSATION</u>	32
24.	<u>LABORATORY SECURITY</u>	35
25.	<u>RESPONSIBLE AND ETHICAL CONDUCT OF RESEARCH</u>	35
26.	<u>APPENDIX</u>	35

1. APPLICABILITY

In carrying out approved activities under the Small Business Innovation Research (SBIR) grant, you should follow [2 CFR 200, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”](#) as supplemented by these award terms and conditions. These award terms and conditions, will refer to other documents as applicable. The statutory authority for this grant award is stated in Block 11 of Form NIFA-2009.

2. ORDER OF PRECEDENCE

In the event of any inconsistency between provisions of the award, the inconsistency will be resolved by giving precedence in the following order:

- Applicable laws and statutes of the United States, including any specific legislative provisions mandated in the statutory authority for the award
- Code of Federal Regulations (CFR)
- NIFA Small Business Innovation Research (SBIR) Program Terms and Conditions
- Agency policy
- Application documents

3. ABOUT THE DOCUMENT

The document incorporates:

- [2 CFR 200, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”](#) (as referred to as Uniform Guidance (UG)), by reference;
- frequently asked questions for 2 CFR 200 (located at <https://cfo.gov/cofar>) which have the full force and effect of the UG (the version in effect at the time of the award is applicable); and
- [7 CFR 3403, “Small Business Innovation Research Grants Program”](#).

4. APPLICABLE REGULATIONS AND NATIONAL POLICY REQUIREMENTS

As a condition of this grant award, you assure that you will be in compliance and will comply with applicable statutory and national policy requirements, including those specified in [2 CFR 200.300](#) and

[Appendix II of 2 CFR 200](#), which hereby are incorporated in this grant award by reference, and such other provisions as are specified herein.

Regulation/Statute	Title
2 CFR Part 25	Universal Identifier and System for Award Management
2 CFR Part 170	Reporting Subaward and Executive Compensation Information Also see Section 23 of these award terms.
2 CFR Part 175	Award Term for Trafficking in Persons
2 CFR Part 180	OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)
2 CFR Part 182	Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)
2 CFR Part 200	Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
2 CFR Part 400	Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
2 CFR Part 400.2	Conflict of Interest
2 CFR Part 415	General Program Administrative Regulations
2 CFR Part 416	General Program Administrative Regulations for Grants and Cooperative Agreements to State and Local Governments
2 CFR Part 417	Nonprocurement Debarment and Suspension
2 CFR Part 418	New Restrictions on Lobbying
2 CFR Part 421	Requirements for Drug-Free Workplace (Financial Assistance)
2 CFR Part 422	Research Institutions Conducting USDA Funded Extramural Research; Research Misconduct

	<p>All research awards issued by NIFA are subject to 2 CFR 422,; USDA’s implementation of the Federal Policy on Research Misconduct published at 65 FR 76260. In accordance with sections 2, 3, and 8 of 2 CFR Part 422, institutions that conduct extramural research funded by USDA must foster an atmosphere conducive to research integrity, bear primary responsibility for prevention and detection of research misconduct and are to maintain and effectively communicate and train their staff regarding policies and procedures. The AOR assures, through acceptance of the award that the institution will comply with the above requirements. Grant recipients shall, upon request, make available to NIFA the policies and procedures as well as documentation to support the conduct of the training.</p> <p>To report allegations of research misconduct see http://nifa.usda.gov/research-misconduct</p>
7 CFR Part 1, Subpart A	Official Records
7 CFR Part 1b	National Environmental Policy Act
7 CFR Part 3	Debt Management
7 CFR Part 15, Subpart A	Nondiscrimination in Federally-Assisted Programs of the Department of Agriculture – Effectuation of Title VI of the Civil Rights Act of 1964
7 CFR Part 3100	Cultural and Environmental Quality
7 CFR Part 3403	Small Business Innovation Research Grants Program
8 U.S.C. 1324a.	Unlawful employment of aliens
29 U.S.C. 794	Nondiscrimination under Federal grants and programs
41 U.S.C. 6306	Interest of Member of Congress
41 U.S.C. 4712	Pilot program for enhancement of contractor protection from reprisal for disclosure of certain information
45 CFR Part 74, Appendix E	Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals
48 CFR Subpart 31.2	Principles for determining costs with profitmaking firms and those nonprofit organizations that are specifically excluded from the provisions of 2 CFR part 200
Executive Order (EO) 13513	“Federal Leadership on Reducing Text Messaging While Driving,”

<p>Frequently Asked Questions (FAQs) for 2 CFR Part 200</p>	<p>Located at: https://cfo.gov/wp-content/uploads/2015/09/9.9.15-Frequently-Asked-Questions.pdf</p>
<p>Other laws, agency-specific regulations applicable to USDA agencies and staff offices</p>	<p>USDA agencies and staff offices must comply with provisions found in the Consolidated Appropriations Act, 2016, Pub. L. 114-113, Division E, Title VII, General Provisions Government-wide, Sections 743, 744, 745, 746 respectively <i>or any successor provisions of law.</i></p> <p><u>Prohibition Against Certain Internal Confidentiality Agreements</u></p> <p>(a) You may not require your employees, contractors, or subrecipients seeking to report fraud, waste, or abuse to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting them from lawfully reporting that waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.</p> <p>(b) You must notify your employees, contractors, or subrecipients that the prohibitions and restrictions of any internal confidentiality agreements inconsistent with paragraph (a) of this award provision are no longer in effect.</p> <p>(c) The prohibition in paragraph (a) of this award provision does not contravene requirements applicable to any other form issued by a Federal department or agency governing the nondisclosure of classified information.</p> <p>(d) If NIFA determines that you are not in compliance with this award provision, NIFA:</p> <ol style="list-style-type: none"> 1) Will prohibit your use of funds under this award, in accordance with sections 743 and 744 of Division E of the Consolidated Appropriations Act, 2016, (Pub. L. 114-113) or any successor provision of law; 2) May pursue other remedies available for your material failure to comply with award terms and conditions. <p><u>Assurance Regarding Felony Conviction or Tax Delinquent Status for Corporate Applicants</u></p> <p>This award is subject to the provisions contained in the Consolidated Appropriations Act, 2016, Pub. L. 114-113, Division E, Title VII, sections 745 and 746, as amended and/or subsequently enacted for U.S. Department of Agriculture (USDA) agencies and offices regarding corporate felony convictions and corporate federal tax delinquencies. Accordingly, by accepting this award the corporation recipient acknowledges:</p> <ol style="list-style-type: none"> (1) that it does not have a Federal tax delinquency, meaning that it is not subject to any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, and (2) that it has not been convicted of a felony criminal violation under any Federal law within 24 months preceding the award, unless a suspending and debarment official of the USDA has considered suspension or debarment of the recipient corporation based on these convictions and/or tax delinquencies and determined that suspension or debarment is not necessary to protect the interests

	of the Government. If the recipient fails to comply with these provisions, the agency will annul this agreement and may recover any funds the recipient has expended in violation of the above cited statutory provisions.
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National Policy Requirements

A listing of National Policy Requirements recipients must adhere to, where applicable, is located at: <http://www.nsf.gov/bfa/dias/policy/gc1/policymatrix.pdf>.

OTHER REQUIREMENTS

Fraud, Waste, and Abuse

At a minimum, organizations must prepare and make available information about fraud, waste, and abuse to individuals participating in the SBIR project. Fraud includes any false representation about a material fact or any intentional deception designed to deprive the United States unlawfully of something of value or to secure from the United States a benefit, privilege, allowance, or consideration to which an individual or business is not entitled. Waste includes extravagant, careless, or needless expenditure of Government funds, or the consumption of Government property, that results from deficient practices, systems, controls, or decisions. Abuse includes any intentional or improper use of Government resources, such as misuse of rank, position, or authority or resources. The information should clearly inform individuals that they are to report any suspicions of fraud, waste, or abuse to the Office of Inspector General (OIG) pursuant to the provisions of the Whistleblower Protection Act of 1989 and the Inspector General Act of 1978. Contact information for the OIG is available on their website at <https://www.usda.gov/oig/hotline.htm>. The OIG may be contacted via the telephone at:

- Hotline: (800) 424-9121
- Hotline Local: (202) 690-1622
- Hotline TDD: (202) 690-1202

Examples of fraud, waste, and abuse include, but are not limited to:

- (i) misrepresentations or material, factual omissions to obtain, or otherwise receive funding under, an SBIR award;
- (ii) misrepresentations of the use of funds expended, work done, results achieved, or compliance with program requirements under an SBIR award;
- (iii) misuse or conversion of SBIR award funds, including any use of award funds while not in full compliance with SBIR Program requirements, or failure to pay taxes due on misused or converted SBIR award funds;
- (iv) fabrication, falsification, or plagiarism in applying for, carrying out, or reporting results from an SBIR award;
- (v) failure to comply with applicable federal costs principles governing an award;
- (vi) extravagant, careless, or needless spending;
- (vii) self-dealing, such as making a sub-award to an entity in which the PI has a financial interest;
- (viii) acceptance by agency personnel of bribes or gifts in exchange for grant or contract awards or other conflicts of interest that prevents the Government from getting the best value; and
- (ix) lack of monitoring, or follow-up if questions arise, by agency personnel to ensure that awardee meets all required eligibility requirements, provides all required certifications, performs in accordance with the terms and conditions of the award, and performs all work proposed in the application.

Industrial Hemp

By accepting the award, the awardee agrees that if it will grow or cultivate industrial hemp under the

project, the organization will comply with all terms and conditions set by the applicant's State agency regarding industrial hemp growth and cultivation. For this purpose, the term "industrial hemp" includes the plant *Cannabis sativa L.* and any part or derivative of such plant, including seeds of such plant, whether growing or not, that is used exclusively for industrial purposes (fiber and seed) with a tetrahydrocannabinols concentration of not more than 0.3 percent on a dry weight basis. The term "tetrahydrocannabinols" includes all isomers, acids, salts, and salts of isomers of tetrahydrocannabinols. If industrial hemp activities are conducted under the award, NIFA, in accordance with 2 CFR 200.336, has the right of access to any documents, papers, or other records of the non-Federal entity which are pertinent to the Federal award, in order to verify compliance with the terms and conditions set by the applicant's State agency. For further information see <https://nifa.usda.gov/industrial-hemp>.

Life Sciences Dual Use Research of Concern (DURC)

For all research, funded by NIFA, that potentially falls within the scope of the US Government Policy for Institutional Oversight of Life Sciences Dual Use Research of Concern (<http://www.phe.gov/s3/dualuse/Pages/default.aspx>) as published in September 2014, grantees are responsible for monitoring the research progress and for implementation of all appropriate biosafety and biosecurity risk mitigation measures including compliance with all applicable laws and regulations related to that implementation, including the Policy specified above. (See also <http://osp.od.nih.gov/office-biotechnology-activities/biosecurity/dual-use-research-concern> for Frequently Asked Questions, case studies, and other educational materials on DURC.)

Genetic Resources from Outside of U.S.

If this project will use genetic resources from outside the United States, the Project Director (PD) is advised to seek information regarding any required prior informed consent from and benefit-sharing with the appropriate host country authorities. Researchers must also obtain permits and follow USDA/APHIS importation regulations (http://www.aphis.usda.gov/import_export/index.shtml). Contact the Plant Exchange Office, ARS, USDA, <http://www.ars.usda.gov/News/docs.htm?docid=18724> or the National Animal Germplasm Program, <http://www.ars.usda.gov/AboutUs/AboutUs.htm?modecode=54-02-05-03>, as appropriate for further guidance on archiving the collections.

5. FLOW-DOWN OF REQUIREMENTS UNDER SUBAWARDS

The terms and conditions of the award flow down to subawards to subrecipients, unless the terms and conditions specify an exception. See [2 CFR 200.101](http://www.ecfr.gov/2-cfr-200-101).

6. DEFINITIONS

Applicable definitions are included in [Subpart A of 2 CFR 200](http://www.ecfr.gov/2-cfr-200) and [7 CFR 3403](http://www.ecfr.gov/7-cfr-3403). The following are a few clarifications:

- a. **Authorized Representative (AR)** has the same meaning as "AOR," Authorized Organizational Representative) (see 7 CFR 3403.2).
- b. **Period of Performance** has the meaning given in [2 CFR 200.77](http://www.ecfr.gov/2-cfr-200-77), with the additional clarification that the term includes any extension of the end date of the award, such as a no-cost extension authorized by [2 CFR 200.308](http://www.ecfr.gov/2-cfr-200-308), paragraph (d)(2). The period of performance is identified in Block 4. of the Award Face Sheet (Form NIFA-2009). Statutory language or agency policy may limit the maximum potential period of performance (including any awards transferred from another institution or organization). The period of performance will commence on the effective date cited in the award instrument. Any such limitation also applies to subcontracts made under awards subject to a period of performance limitation. If the period of performance is for 5 years, then refer to "Expiring Appropriations" under section 14.

- c. **Principal Investigator/Project Director (PI/PD)** (defined in 7 CFR 3403.2) is more commonly referred to as Project Director (PD).

7. **RECIPIENT AND USDA AGENCY CONTACTS**

The following contacts are provided for your assistance.

Recipient Contacts:

The Project Director contact is identified in Block 15 of the Award Face Sheet (Form NIFA- 2009).

NIFA will consider the individual identified in Block 5 of the SF-424 R&R Application for Funding as the recipient's administrative contact person.

USDA/NIFA Contacts:

Program Point of Contact (otherwise called the "NPL," National Program Leader) - a NIFA individual who is responsible for the technical oversight of the award on behalf of the USDA (the individual is identified in Block 14. of the Award Face Sheet (Form NIFA-2009)).

Administrative Point of Contact – a NIFA individual who is responsible for the administrative oversight of the award on behalf of the USDA (the individual is identified in Block 14. of the Award Face Sheet (Form NIFA-2009)).

Where these terms and conditions direct information to be submitted to the Authorized Departmental Officer (ADO), the address to be used is as follows:

Awards Management Division
Office of Grants and Financial Management
National Institute of Food and Agriculture
U.S. Department of Agriculture
STOP 2271
1400 Independence Avenue, S.W.
Washington, D.C. 20250-2271
Telephone: (202) 401-4986

When requesting ADO approval, requests must be submitted as a pdf attachment to an email sent to awards@nifa.usda.gov.

Contact Information for Intellectual Property Matters:

Questions regarding intellectual property matters (this does **not** include questions and issues regarding Interagency Edison) should be referred to:

Planning, Accountability, and Reporting Staff National Institute of Food and
Agriculture, USDA STOP 2213
1400 Independence Avenue, S.W. Washington, D.C. 20250-2213
Telephone: (202) 720-5623
E-mail: bayhdole@nifa.usda.gov

Interagency Edison (iEdison) can be accessed at <http://www.iEdison.gov>. An overview of the iEdison invention reporting process, an iEdison tutorial, and extensive help text can be found as links on the

iEdison home page. Requests for detailed instructions or other questions regarding Interagency Edison should be directed to:

Division of Extramural Inventions & Technology Resources (DEITR)
 National Institutes of Health (NIH)
 6705 Rockledge Drive, Suite 310, MSC 7980
 Bethesda, Maryland 20892-7980
 Telephone: (301) 435-1986
 Facsimile: (301) 480-0272 E-mail: Edison@nih.gov

8. PRIOR APPROVAL REQUIREMENTS

	Reference	Prior Approval Required or Waived
Prior Written Approval (prior approval).	200.407	
Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts	200.407(a)	
Changes in principal investigator (PI), project leader, project partner, or scope of effort.	200.201(b)(5)	Required
Cost sharing or matching	200.407(b)	
Use of unrecovered indirect costs, including indirect costs on cost sharing or matching.	200.306(c)	N/A
Use of current fair market value to determine the value of non-Federal entity donations of services and property for the purposes of cost sharing or matching.	200.306(d)(2)	N/A
Costs of the fair market value of equipment or other capital assets and fair rental charges for land when the Federal award supports activities that require use of equipment, buildings or land.	200.306(h)(2)	N/A
Program Income	200.407(c)	
Use of program income during the period of performance (additive method).	200.307(e)(2)	Waived
Revision of budget and program plans	200.407(d)	
Change in the scope or the objective of the project or program.	200.308(c)(1)(i)	Required
Change in a key person specified in the application or Federal award.	200.308(c)(1)(ii)	Required
Disengagement from the project for more than three months, or a 25 percent reduction in time devoted to the project by the approved PI/PD.	200.308(c)(1)(iii)	Required
Inclusion, unless waived, of costs that require prior approval in accordance with Subpart E -- Cost Principles.	200.308(c)(1)(iv)	Required
Transfer of funds budgeted for participant support costs to other categories of expense.	200.308(c)(1)(v)	Required
Subawarding, transferring or contracting out any work under a Federal award. This provision does not apply to the acquisition of supplies, material, equipment or general purpose services.	200.308(c)(1)(vi)	Required
Changes in the approved cost-sharing or matching provided by the non-Federal entity.	200.308(c)(1)(vii)	Required
Need for additional Federal funding to complete the project.	200.308(c)(1)(viii)	Required
Incur project costs 90 calendar days before the Federal awarding agency makes the award.	200.308(d)(1)	Waived
Incur project costs more than 90 calendar days pre-award.	200.308(d)(1)	Required
Initiate a one-time extension of the period of performance by up to 12 months.	200.308(d)(2)	Waived
Subsequent no-cost extension or extension of more than 12 months.	200.308(d)(2)	Required
Carry-forward of unexpended balances to subsequent funding periods.	200.308(d)(3)	Waived
Transfer amounts budgeted for indirect costs to absorb increases in direct costs, or vice versa.	200.308(d)(4)	Waived
Rebudgeting among direct cost categories for Federal awards in which the cumulative amount of such transfers exceeds or is expected to exceed 10 percent of the approved budget.	200.308(e)	Waived
Transfer of funds between construction and non-construction activities.	200.308(g)(5)	Required
Real Property	200.407(e)	

	Encumber real property acquired with Federal funds.	200.311(b)	Required
	Transfer of title to the Federal awarding agency or to a third party.	200.311(c)(3)	Required
	Special arrangements and alterations costs incurred specifically for a Federal award.	200.462(a)	Required
Equipment		200.407(f)	
	Encumber equipment acquired with Federal funds.	200.313(c)(1)	Required
Fixed amount subawards		200.407(g)	
	Subawards based on fixed amounts at any dollar amount, provided the subawards meet the requirements for fixed amount awards in 200.201.	200.332	Required
Direct Costs		200.407(h)	
	Direct charge the salaries of administrative and clerical staff if all conditions in 200.413 are met, excluding 200.413(c)(3).	200.413(c)	Required
Compensation -- personal services, paragraph (h)		200.407(i)	
	Directly charge payments of incidental activities for which supplemental compensation is allowable under written institutional policy (at a rate not to exceed institutional base salary).	200.430(h)(1)(ii)	Required
	Force account labor	200.430(h)(1)	Required
	Faculty salary in excess of Institutional Base Salary (IBS).	200.430(h)(2)	Required
	Intra-IHE faculty consulting on a Federal award that exceed a faculty member's base salary.	200.430(h)(3)	Required
Compensation -- fringe benefits		200.407(i)	
	Severance payments to foreign nationals employed by the non-Federal entity outside the US that exceed the amounts customary in the US.	200.431(i)(4)	Required
	Severance payments to foreign nationals employed by the non-Federal entity outside the US due to termination of the foreign national as a result of the closing of, or curtailment of activities by, the non-Federal entity in that country.	200.431(i)(5)	Required
Entertainment costs		200.407(k)	
	Inclusion of costs of entertainment, including amusement, diversion, and social activities and any associated costs that have a programmatic purpose.	200.438	Required
Equipment and other capital expenditures		200.407(l)	
	Direct charge capital expenditures for general purpose equipment.	200.439(b)(1)	Waived
	Direct charge capital expenditures for buildings and land use.	200.439(b)(1)	Required
	Direct charge capital expenditures for special purpose equipment over \$5,000.	200.439(b)(2)	Waived
	Capital expenditures for improvements to land or buildings which materially increase their value or useful life.	200.439(b)(3)	Required
Exchange rates		200.407(m)	
	Exchange rate fluctuations that result in the need for additional Federal funding, or a reduction in the scope of the project.	200.440(a)	Required
Fines, penalties, damages and other settlements		200.407(n)	
	Costs resulting from non-Federal entity violations of, alleged violations of, or failure to comply with, Federal, State, tribal, local or foreign laws and regulations.	200.441	Required
Fund raising and investment management costs		200.407(o)	
	Costs of organized fund raising for the purposes of meeting the Federal program objectives.	200.442(a)	Required
Goods or services for personal use		200.407(p)	
	Costs of housing (e.g. depreciation, maintenance, utilities, furnishings, rent), housing allowances and personal living expenses.	200.445(b)	Required
Insurance and indemnification		200.407(q)	
	Costs of insurance or of contributions to any reserve covering the risk of loss of, or damage to, Federal Government property.	200.447(b)(2)	Required
Memberships, subscriptions, and professional activity costs, paragraph (c)		200.407(r)	
	Costs of membership in any civic or community organization.	200.454(c)	Required
Organization costs		200.407(s)	
	Costs such as incorporation fees, brokers' fees, fees to promoters, organizers or management consultants, attorneys, accountants, or investment counselor, whether or not employees of the non-Federal entity in connection with establishment or reorganization.	200.455	Required

Participant support costs		200.407(t)	
	Inclusion of participant support costs.	200.456	Waived
	Transfer of funds budgeted for participant support costs to other categories of expense.	200.308(c)(1)(v)	Required
Pre-award costs		200.407(u)	
	Inclusion of allowable pre-award costs.	200.458	Waived
	Incur project costs 90 calendar days before the Federal awarding agency makes the award.	200.308(d)(1)	Waived
	Incur project costs more than 90 calendar days pre-award.	200.308(d)(1)	Required
Rearrangement and reconversion costs		200.407(v)	
	Direct charge special arrangements and alterations costs incurred specifically for a Federal award.	200.462(a)	Required
Selling and marketing costs		200.407(w)	
	Costs of selling and marketing any products or services of the non-Federal entity (unless allowed under §200.421 Advertising and public relations).	200.467	Required
Taxes (including Value Added Tax)		200.407(x)	
	Use of foreign tax reimbursement for approved activities under the Federal award.	200.470(c)	Required
Travel costs		200.407(y)	
	Inclusion of travel costs for officials covered by 200.444 General costs of government.	200.474(a)	Required
	Travel costs for dependents for travel of duration of six months or more.	200.474(c)(2)	Required

PRIOR APPROVAL IS REQUIRED:

The above chart (last column of chart includes “Required”) identifies situations where prior written approval (i.e., awardee must receive prior written approval from NIFA’s ADO). The following are the most common situations requiring prior approval along with information about what is needed when requesting approval. However, the awardee is bound by any other prior approval requirements of the applicable administrative provisions and Federal cost principles. **All prior approval requests must be signed or countersigned by the AR and PD/PI and as a pdf attachment to an email sent to awards@nifa.usda.gov.**

Scope or Objectives

When it is necessary to modify the scope or objectives of the award, the AR shall submit to the ADO a justification for the change along with the revised scope or objectives of the award. The request should contain the following:

1. Include the grant number and proposal number;
2. Provide a narrative explaining the requested modification to the project objectives/scope;
3. Provide a description of the revised objectives/scope
4. Signatures of the AR and/or the Project Director must be on the letter.
5. Send the letter to the ADO for timely processing as identified in these terms and conditions.

Change Key Personnel

When it is necessary to change key personnel, the AR shall submit a written request to the ADO to replace the key personnel. The request should contain the following:

1. Include the grant number and proposal number;
2. Narrative explaining the need for the personnel change;
3. The request should contain a copy of the new individual’s curriculum vita and
4. Signature of the proposed replacement signifying his/her willingness to serve on the project.
5. Signatures of the AR and/or the Project Director must be on the letter.
6. Send the letter to the ADO for timely processing as identified in these terms and conditions.

Sub-contractual Arrangements

Total funds for subcontracting/consulting may not normally exceed one-third of the research or analytical effort as determined by budget expenditures during a Phase I project and one-half of the research or analytical effort as determined by budget expenditures during a Phase II project. Consulting fees are normally limited to the equivalent of the Senior Executive Service Level IV salary (see <http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2015/executive-senior-level> for Rates of Pay for Executive Schedule). Prior written approval of the ADO is required for any subcontract awarded 1) whereby work is to be performed outside of the United States, 2) for an amount in excess of the noted sub-contractual limitations, or 3) for consultant fees exceeding a Senior Executive Service Level IV salary.

To request authorization from the ADO for 1) and 2) noted above, the AR shall submit to the ADO the following:

1. Include the grant number and proposal number;
2. Provide a narrative explaining the proposed sub-contractual arrangements;
3. Provide a statement of work to be performed;
4. Include a detailed budget;
5. Provide a budget narrative for the subcontract
6. Signatures of the AR and/or the Project Director must be on the letter.
7. Provide a letter of collaboration/intent signed by the subcontractor's AR.
8. Send the letter to the ADO for timely processing as identified in these terms and conditions. Sub-contractual arrangements that are disclosed in the proposal or modifications thereto do not require additional post-award approval unless language in the award specifically states otherwise.

To request authorization from the ADO for 3) noted above, the AR shall submit justification for exceeding the Senior Executive Service Level IV salary to the ADO.

The awardee is responsible, without recourse to NIFA, regarding the settlement and satisfaction of all contractual and legal issues arising out of contracts, grants, or other instruments entered into between the awardee and third parties to carry out approved project activities. Matters concerning violation of law should be referred to the Federal, State, or local authority having proper jurisdiction.

Subcontractors/consultants must obtain prior written **university** or Federal facility approval to use or work in university or Federal facility as a subcontractor/consultant under a SBIR award. Approval must be from the AR of the university or Federal facility, as applicable.

Adding or Changing Consulting Services

If the use of consultant services becomes necessary during project performance, the awardee may enter into appropriate arrangements as needed to obtain such services provided that:

- a. The use of a consultant or consultants does not constitute the transfer of substantive programmatic work requiring prior approval; or
- b. The awardee does not propose to pay a consulting fee to one of its own employees.

Where one of these conditions exists and the consulting services are not a part of the approved budget, the awardee shall seek and document approval in accordance with the awardee's normal procedures. The documentation should include a justification, performance statement, rate of pay and vitae.

Federal employees may provide consulting services to the awardee or to a subrecipient as required to

achieve project objectives and may be compensated for their services provided that such services are performed outside of their official duty hours or while they are in leave status and provided also that they receive approval from their respective agencies prior to rendering these services. Under no circumstances may employees of NIFA receive compensation under a NIFA-supported project, regardless of tier.

Equipment

Any budgetary change resulting in a cumulative amount of equipment to exceed or is expected to exceed 10% of the total budget as last approved by NIFA, such a change requires prior ADO approval. To request approval, the AR is to submit to the ADO a justification for the equipment including the dollar amount of the item and, if appropriate, an explanation as to why the equipment is to be purchased vs. leased.

Foreign Travel

All foreign travel (i.e., includes any travel outside of North America and/or U.S. Possessions) performed under this award must be approved in writing by the ADO prior to departure. If foreign travel is authorized under this project, the approved budget will identify funds for this purpose. Where foreign travel is contemplated subsequent to the effective date of the project, a written request must be submitted to the ADO outlining the purpose of the proposed trip, the inclusive dates of travel, the destination, and estimated costs involved.

Profit Fee

A profit fee under this award must be pre-approved in writing by the ADO. If a profit fee is authorized under this project, the approved budget will identify funds for this purpose. Where a profit fee is contemplated subsequent to the effective date of the project, a written request must be submitted to the ADO identifying the amount and the related budgetary changes.

Changes of Name or Legal Status

If an awardee is contemplating any type of transaction involving the entity (i.e., merger, spin-off, or sale), it is advised that the awardee contact the program point of contact identified in Block 14. of the Award Face Sheet (Form NIFA-2009)(or any one of the SBIR National Program Leaders) for knowledge of how the transaction may affect the award. The awardee shall notify the ADO promptly of any pending change in its name or address, its principal operating officers, or the legal status of the awardee institution, organization, or entity, including, but not limited to, change brought about through merger, divestiture, or bankruptcy. Upon notification, the ADO shall provide appropriate instructions to the awardee through the AR.

Absence of or Change in Project Leadership

When a PD/PI plans to:

1. Relinquish active direction of the project for a period of more than three consecutive months,
2. have a 25 percent or more reduction in the time devoted to the project, or
3. sever his or her connection with the awardee,

the awardee has several options and responsibilities.

- a. If the PD/PI's absence is temporary, the AR must notify the ADO in writing of arrangements for the continuing conduct of the project (i.e., identify who will be in charge during the PI/PD's absence, including his/her curriculum vita and his/her written concurrence).

- b. If the PD/PI severs his/her affiliation with the awardee, the awardee's options include:
- 1) Replacing the PD/PI on the Project - The AR must request, in writing, ADO approval of the replacement PD/PI and must include a copy of his/her curriculum vita. The request must also contain the signature of the proposed replacement PD/PI signifying his/her willingness to assume leadership of the project.
 - 2) Relinquish the Award - If neither of the previous options is viable and the awardee wishes to relinquish the award, the following procedures should be followed: the awardee should send a letter, signed by the AR and PD/PI, to the ADO which indicates the awardee is relinquishing the award. The letter should include the date the PD/PI is leaving and a summary of progress to date (the progress report can be accomplished by attaching a final "Accomplishments Report" in REEPort and submitting a Final Technical Report. A final Form SF-425, "Federal Financial Report", which reflects the total amount of funds spent by the awardee, should be submitted.

No-Cost Extensions of Time

Where a no-cost extension of time is required (e.g., second extension and extension of more than 12 months), the extension(s) must be approved in writing by the ADO. The AR shall prepare and submit a written request to the applicable ADO. The request must be received by the ADO no later than 10 days prior to the expiration date of the award and should contain the following information:

1. Addressed to the ADO;
2. Include the grant number;
3. Time required to complete the project objectives and justification;
4. A summary of progress to date;
5. An estimate of funds expected to remain unobligated on the scheduled expiration date;
6. A projected timetable to complete the portion(s) of the project for which the extension is being requested;
7. Signatures of the AR and/or the Project Director must be on the letter.
8. Send the letter to the ADO for timely processing as identified in these terms and conditions.

Requests for no-cost extensions of time after expiration date. NIFA may consider and approve requests for no-cost extensions of time up to 120 days following the expiration of the award. These will only be approved for extenuating circumstances, as determined by NIFA. The awardee's AR must submit the requirements identified in items 1. through 8. above as well as an "extenuating circumstance" justification and a description of the actions taken by the awardee to minimize late requests in the future.

The fact that funds are expected to remain unobligated at the expiration of the award is not in itself sufficient justification to receive an extension of time unless otherwise authorized in the program legislation. Normally, no single extension may exceed 12 months and only in exceptional cases will more than one extension be considered. The award period (including any subsequent authorized extensions of time), shall not exceed any applicable limit (see the asterisked paragraph at the end of this subpart.).

*Note that statutory language or agency policy may limit the maximum potential award period. The award period will commence as of the effective date cited in the award instrument. Any such limitation also applies to subcontracts made under awards subject to an award period limitation.

Pre-award Costs Incurred Outside the 90-Day Period

Where pre-award costs are incurred outside the 90-day period immediately preceding the award, such costs

must be approved in writing by the ADO. The request must be received and approved by the NIFA Office of Grants and Financial Management prior to charging such costs to the award. The request must include the following:

1. Justification for why pre-award costs are necessary
2. A timetable or date when the expense will be incurred
3. What the expense is for (Note: these costs must be accounted for in the final approved budget)
4. The estimated amount of the expense.
5. Signatures of the AR and/or the Project Director must be on the letter.
6. Send the letter to the ADO for timely processing as stated in Section 7 of these terms and conditions

Extension to Submit a Final Federal Financial Report, Form SF-425

Request submitted PRIOR to the end of the 90-day period following the award expiration date. The request should include a provisional report (showing unliquidated obligations), justification for not submitting a final by the initial due date, and the anticipated date for submission of a final report. Note that any extension of time is subject to expiring appropriations or other statutory or agency policy limitations. Funds will remain available for drawdown during an approved extension of time. The SF-425 must be submitted via email to awards@nifa.usda.gov.

Request submitted FOLLOWING the end of the 90-day period following the award expiration date. Such requests will only be considered, up to 30 days after the due date, in extenuating circumstances. This request should include a provisional report (showing unliquidated obligations) as well as an anticipated submission date for the final report, a justification for the late submission, and a justification for the extenuating circumstances. Note that any extension of time is subject to expiring appropriations or other statutory or agency policy limitations.

PRIOR APPROVAL IS WAIVED:

NIFA is exercising its option and is waiving prior written approval (i.e., recipients need not obtain such prior approval(s)) for the situations noted in the previous chart (last column of chart includes “Waived”). The following is additional information regarding a couple of waivers.

Program Income

If the award recipient or subrecipient is other than a Federal agency, royalties or equivalent income earned on patents, inventions, and copyrighted works may be retained by the awardee. General program income earned during the period of NIFA support of this project shall be added to total project funds and used to further the objectives of this award or the legislation under which this award is made. Disposition of program income earned by subawardees shall be determined in accordance with the awardee's own policies. Also see 2 CFR Part 200.307.

Pre- award costs

The PD may incur pre-award costs within the 90-day period immediately preceding the effective date of the award providing: the approval of pre-award spending is made and documented in accordance with the awardee's normal procedures prior to the incurrence of the cost(s); the advanced funding is necessary for the effective and economical conduct of the project; and the costs are otherwise allowable. As outlined in [2 CFR 200.308 \(d\)\(1\)](#), all costs incurred before the USDA awarding agency makes the award are at the risk of the recipient. AR authority to approve pre-award costs does not impose an obligation on NIFA. The USDA

awarding agency is under no obligation to reimburse costs if for any reason the: (1) if an award is subsequently not made; (2) if an award is made for a lesser amount than the awardee expected; or (3) the award is inadequate to cover the costs.

Pre-award costs incurred outside the 90-day period immediately preceding the effective date of the award must receive written approval from the ADO.

First Time No-cost Extension of Time

The recipient may extend the period of performance one time for a period of up to 12 months beyond the original completion date shown in the NIFA Form 2009 (Award Face Sheet) if:

- no term of award specifically prohibits the extension,
- no additional funds are required to be obligated by the NIH awarding IC, and
- the project's originally approved scope will not change

Recipients must notify NIFA that they are exercising their one-time authority to extend without funds the completion date of an award. Notifications must be submitted as a pdf attachment to an email sent to awards@nifa.usda.gov.

Budget changes, and other required administrative prior approvals

The AR may make allowable budget changes in which the cumulative amount of such transfers does not exceed or is expected to 10 percent of the approved budget, and other required administrative prior approvals except those which change the scope or objectives of the award, change key personnel, create a need for additional funding, or are specifically prohibited by the terms and conditions of the award. In addition, where a statutory prohibition exists the awardee may not approve such costs.

Equipment

The prior approval for the direct charge of general purpose equipment and special purpose equipment is waived if the cost of the equipment is appropriately prorated among the activities to be benefitted

9. INDIRECT COSTS

Indirect costs will be allowed for the award when specifically included as a line item in the approved budget for this award.

See <http://nifa.usda.gov/indirect-costs> for further information.

As outlined in [2 CFR 200.414 \(f\)](#), any non-Federal entity (NFE) entity that has never had a negotiated indirect cost rate may use a de minimis rate of 10% of modified total direct costs (MTDC) which may be used indefinitely.

2 CFR § 200, Appendix III, paragraph C.7., specifies Federal agencies are required to use the negotiated F&A rates in effect at the time of the initial award throughout the life of the sponsored agreement. As outlined in [2 CFR 200.414 \(g\)](#), any NFE that has a current federally negotiated indirect cost rate may apply for a one-time extension of the rates in that agreement for a period of up to four years. Such requests should be submitted prior to the due date of the next proposal for indirect costs. The extension will be subject to the review and approval of the cognizant agency for indirect costs. If an extension is granted, the grantee may not request a rate review until the extension period ends. At the end of the four year extension, the grantee must re-apply to negotiate a rate. Subsequent one-time extensions (up to four years) are permitted if

a renegotiation is completed between each extension request.

10. ALLOWABLE COSTS

Grant funds may only be used for allowable costs incurred during the period of performance (see Section 6). See [2 CFR 200.309](#). Any costs incurred before the USDA awarding agency or pass-through entity made the award are allowed as long as they were authorized by the USDA awarding agency or pass-through entity.

Allowable costs will be determined in accordance with the applicable program legislation, the purpose of the grant award, the terms and conditions for the grant award as contained herein, and by the following Federal cost principles that are applicable to the type of organization receiving the award, regardless of the type of award or tier (i.e., prime awardee, subaward) as are in effect at the time of the award:

[2 CFR part 200](#), “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.”

[48 CFR Subpart 31.2](#), “Principles for determining costs with profitmaking firms and those nonprofit organizations that are specifically excluded from the provisions of 2 CFR part 200.”

45 CFR Part 74, Appendix E, “Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals.”

11. UNALLOWABLE COSTS

The following costs are unallowable under this grant unless otherwise permitted by law or approved in writing by the ADO:

- a. Costs above the amount authorized for the project;
- b. Costs incurred before the effective date of the award;
- c. Costs incurred after the expiration of the award including any no-cost extensions of time;
- d. Costs which lie outside the scope of the approved project and any amendments thereto;
- e. Entertainment costs regardless of their apparent relationship to project objectives;
- f. Business meals may not be charged as project costs when individuals decide to go to breakfast, lunch, or dinner together when no need exists for continuity of a meeting. Such activity is considered to be an entertainment cost. In contrast, costs of meetings and conferences, the primary purpose of which is the dissemination of technical information, are allowable; however, it is NIFA’s policy that the meeting/conference be a formal group meeting being conducted in a business atmosphere where the provided meal maintains the continuity of the meeting and to do otherwise will impose arduous conditions on the meeting participants. Note: Meals consumed while in official travel status do not fall in this category. They are considered to be per diem expenses and should be reimbursed in accordance with the organization’s established travel policies.
- g. Independent research and development costs;

- h. Compensation for injuries to persons or damage to property arising out of project activities;
- i. Consulting services performed by a Federal employee during official duty hours when such consulting services result in the payment of additional compensation to the employee;
- j. None of the funds under this award may be used towards travel costs for NIFA employees.

This list is not exhaustive. Questions regarding if particular items of cost are allowed, should be directed to the ADO.

NOTE: Costs which have been determined to be unallowable, whether by statutory or regulatory mechanism, may not be used to meet any required non-Federal share of costs.

12. LIMIT OF FEDERAL LIABILITY

The maximum obligation of NIFA to the awardee is the amount indicated in the award as obligated by NIFA. Nothing in this section or in the other requirements of this award requires NIFA to make any additional award of funds or limits its discretion with respect to the amount of funding to be provided for the same or any other purpose. However, in the event that an erroneous amount is stated in the award, the approved budget, or any supporting documentation relating to the award, NIFA shall have the unilateral right to make the correction and to make an appropriate adjustment in the NIFA share of the award to align with the Federal amount authorized.

13. SBIR REPORTING REQUIREMENTS

As outlined in [2 CFR 200.328](#), you are responsible for oversight of the operations of the award support activities. You must monitor the activities to assure compliance with applicable Federal requirements and performance expectations are being achieved. Monitoring must cover each program, function or activity.

It is important to note that several of the reporting requirements are linked to the grantee receiving payment for the grant. Additionally the grantee is required to fulfill a dual reporting requirement which includes the submission of technical reports to NIFA staff and a report to the Research, Education, and Extension project online reporting tool (REReport). In addition, the grantee will have other reporting requirements to complete throughout the lifecycle of the grant. Each of these reporting requirements are described in this section.

A. Performance Monitoring

The awardee is responsible for monitoring day-to-day project performance and for reporting progress to NIFA. If this project involves sub-contractual arrangements, the awardee also is responsible for monitoring the performance of project activities under those arrangements to ensure that approved goals and schedules are met.

1. Interim technical report

All Phase I and II awardees are required to submit an interim technical report. This report must be submitted at approximately the mid-point in the project as determined by the SBIR grantee. It should be submitted electronically as an attachment (MS Word or PDF) to the following email address: sbir@nifa.usda.gov. **The grantee must provide a Certification Statement with the report (see “Appendix” of these terms and conditions for the form). For Phase II grants, NIFA’s approval of the interim technical report will release the next increment of funds minus any indirect costs that are under review and negotiation at that time.** The interim technical report can and should include proprietary information as it will not be made available to the public via the worldwide web. The report should include a single-page executive summary as

the first page. This summary should include the purpose of the research, a brief description of the research carried out, the research findings or results, and in a final paragraph, potential applications (commercial or other) of the research. The balance of the report should include a comparison of actual accomplishments with the goals and milestones established in the original application; the reasons for slippage if established goals and milestones were not met; estimates of technical feasibility to be achieved for Phase I or estimates of scale up and commercialization for Phase II; provide an update on how the Phase II Commercialization Program objectives are being met; and additional pertinent information, such as an explanation of cost over-runs or unexpectedly high unit costs. Also, identify all other recipients (public and private) of the research results documented in the report.

The interim report will be reviewed by the SBIR National Program Leader (NPL) that oversees the SBIR topic area the grant falls under. The NPL has the authority to approve or not approve the interim technical report. If an interim technical report is not approved because of issue and concerns, NIFA will consult with the grantee, as appropriate, in an effort to resolve such matters. NIFA reserves the right to terminate a Phase II award if the issues and concerns identified cannot be resolved to NIFA's satisfaction. The NPL will not share the report outside of NIFA and once approved will forward a copy to the NIFA Awards Management Division (AMD) for inclusion in the grant award file. Under the Small Business Act, the USDA is required to protect the intellectual property of the report up to four year after the project is completed unless the SBIR grantee receives an additional SBIR Phase II award, in which USDA will extent the protection period for an additional four years.

2. Comprehensive Final Technical Report

Comprehensive final technical reports for both Phase I and Phase II grants should be submitted electronically as an attachment (MS Word or PDF) to the following email address: sbir@nifa.usda.gov. **The grantee must provide a Certification Statement with the report (see "Appendix" of these terms and conditions for the form).** The final technical report may and should include proprietary information as it will not be made available to the public via the worldwide web. Phase I final reports are due within 90 days after the expiration date but prior to issuance of a Phase II award. Final reports are due within 90 days of expiration unless the project has entered into a fifth (5) year which in this case the report is due by the expiration date of the grant. The report should be an executive summary of the work completed. This summary should include the purpose of the research, a brief description of the research carried out, the research findings or results, potential applications (commercial or other) of the research. Phase II final reports should also include a summary of the level of success in meeting the requirements of the Phase II Commercialization Program including the Commercialization Strategy Report (CSR) and next steps after Phase II funding is completed.

3. SBIR Phase II Out-Briefing and Phase II Impact Statement

All SBIR Phase II projects are required to conduct an out-briefing and provide a Phase II Impact Statement.

The out-briefing is to be scheduled with the National Program Leader, the SBIR Program Coordinator and the SBIR Program Specialist at the conclusion of the grant. The out-briefing should coincide with the submission of the comprehensive final report and should be scheduled for one hour. The out-briefing should be a verbal presentation of the information that would be included in the final report, but in a power point presentation provided by the grantee via a conference call or video conference.

The grantee will provide an impact statement of the project and will follow the template provided in the appendix of these terms and conditions.

The out-briefing and impact statement serves to ensure that both the grantee and NIFA SBIR staff are able to communicate on the outcomes of the project and discuss how the innovation funded will be moving into a commercial market. This information will facilitate plans to communicate the project outcomes with USDA staff, the Small Business Administration, members of Congress and the public.

4. REEport Requirements

- a. Initial Documentation in REEport. All projects must be documented in REEport. Under the law, USDA NIFA is required to document all grants that are funded and this information is published for public viewing. All SBIR Phase I and Phase II awardees should not include intellectual proprietary information in the REEport submission since this information is viewable by the public. Except as noted below, the main USDA contact for all REEport documentation is:

REEport
National Institute of Food and Agriculture
U.S. Department of Agriculture
STOP 2213
1400 Independence Avenue, S.W.
Washington, D.C. 20250-2213
Telephone: (202) 690-0009
E-mail: REEport@nifa.usda.gov

Users who do not know if they have an active account but think they need to use REEport should email electronic@nifa.usda.gov.

NIFA WILL NOT RELEASE FUNDS FOR THIS PROJECT UNTIL THE REQUIRED FORMS HAVE BEEN RECEIVED ELECTRONICALLY BY REEport.

Information collected in REEport, is required upon project initiation for all NEW awards. The NIFA Program Point of Contact will request the Phase I and Phase II awardee, as appropriate, to complete and electronically submit the information to REEport at the appropriate time.

Awardees are requested to submit data electronically. To submit forms electronically, the REEport system can be accessed through the NIFA Reporting Portal at: <http://portal.nifa.usda.gov>. Technical questions regarding the online completion of the reports should be directed to the PARS office at (202) 690-0009 or via email at electronic@nifa.usda.gov.

Questions regarding report content should be directed to the program point of contact identified in Block 14. of the Award Face Sheet (Form NIFA-2009).

b. Annual REEport Requirements

Each year a SBIR Phase I or Phase II award is active, the REEport system will notify the awardee or designated contact via email of upcoming reporting requirements. An “Annual Progress Report” and when applicable, “REEport Financial Report” must be completed in accordance with instructions accompanying the request and/or those provided on the REEport data entry system. Reports must be submitted electronically utilizing access information (e.g., login information) initially gained when the project initiation for the

award was first submitted in REEport. Question regarding access to REEport should be emailed to electronic@nifa.usda.gov.

The annual Progress Report is due 90 calendar days after the award's anniversary date (i.e., one year following the month and day of which the project period begins and each year thereafter up until a final report is required). An annual Progress Report covers the most recent one-year period.

Failure to submit an annual Progress Report within 90 calendar days after the award's anniversary date may result in grant funds being withheld until the report has been submitted as specified.

The following information must be included in the Accomplishments and Changes/Problems section of the annual Progress Report. (1) A comparison of actual accomplishments with the goals established for the reporting period (where the output of the project can be expressed readily in numbers, a computation of the cost per unit of output should be submitted if the information is considered useful); (2) The reasons for slippage if established goals were not met; and (3) Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or unexpectedly high unit costs. When not applicable, a "nothing to report" checkbox may be utilized.

An annual "REEport Financial Report" is due on February 1 of the year subsequent to the federal fiscal year being reported. The annual "REEport Financial Report" discloses expenditures based on funding sources at the project level. The staff support values reported reflects project level effort expended for the particular year being reported. The awardee or designated contact will receive an email request to submit this data, when applicable.

Failure to submit an annual REEport Financial Report may result in grant funds being withheld until the report has been submitted as specified.

c. Final REEport Requirements

In the month that an award is due to expire, a request notification for the Final Technical REEport will be sent electronically to the awardee recipient or designated contact. The Final Technical REEport is required within 90 calendar days after the expiration or termination of the award unless the grant has entered into a fifth (5) year. In the case where the grant has entered into the fifth (5) year, the grantee is required to complete this requirement before the grant expirations date.

The REEport final report, "Accomplishment Report," covers the entire period of performance of the award and must describe progress made during the entire timeframe of the project instead of covering accomplishments made only during the final reporting segment of the project. In addition to supplying the information required under the final REEport, the final REEport must include the following when applicable:

1. A disclosure of any inventions not previously reported that were conceived or first actually reduced to practice during the performance of work under this award; and
2. A written statement on whether or not the awardee elects (or plans to elect) to obtain patent(s) on any such invention; and
3. Identify equipment purchased with any Federal funds under the award and indicate subsequent use of such equipment.

Failure to submit an acceptable Final Technical REEport may result in funds being withheld for other active NIFA grants for which the Project Director(s) under this award are also named as well as prevent the award of future NIFA grants until the required report has been received in REEport.

Note the importance of preparing well written progress and technical reports. Information reported into REEport is used extensively by NIFA to describe the work NIFA funds, plan and defend its budget, assess its programs, and communicate project results. This depends on quality reports written in lay terms. Reported information is also used by State scientists and administrators and is available to the public on the worldwide web. The reports should NOT contain proprietary information as the reports are made available to the public via multiple web sites including NIFA's Data Gateway (<https://nifa.usda.gov/data>) and the REEIS website (<http://www.reeis.usda.gov/>).

B. FINANCIAL REPORTING

An annual "Federal Financial Report," Form SF-425, is due on an annual basis no later than 90 days following the anniversary date (i.e., one year following the month and day of which the project period begins and each year thereafter up until a final report is required). The Federal Financial Report covers the most recent one-year period. The report must be submitted to Awards Management Division as a pdf attachment to an email sent to awards@nifa.usda.gov.

1. All drawdowns must be made within 90 days after the expiration date of the award and before the final SF-425 is submitted.
2. The report shall be completed on a single award basis.
3. The cash management information (lines 10(a) through 10(c)) is **NOT** to be completed.
4. The financial status information (lines 10(d) through 10(o) as well as line 11) on the form are to be completed.
5. The awardee shall report program outlays and program income on the same accounting basis (i.e., cash or accrual) that it uses in its normal accounting system.
6. Lines 10i, 10j, and 10k are to report matching contributions which are not a requirement of a SBIR award; therefore, these lines do not need to be completed.

A final "Federal Financial Report," Form SF-425, is due 90 days after the expiration date of this award unless the grant has entered into a fifth (5) year. If the grant has entered into a fifth (5) year, the Federal Financial Report," Form SF-425, is due no later than the expiration date of grant. The report must be submitted to the Awards Management Division (AMD) as a portable document format (PDF) attachment to an email sent to awards@nifa.usda.gov. All drawdowns must be made within 90 days after the expiration date of the award and before the final SF-425 is submitted unless the grant has entered into the fifth (5) year. If a grant has entered into a fifth (5) year then all drawdowns must be made before the final SF-425 is submitted and before the grant expiration date.

1. All drawdowns must be made within 90 days after the expiration date of the award and before the final SF-425 is submitted.
2. The report shall be completed on a single award basis.
3. The cash management information (lines 10(a) through 10(c)) is **NOT** to be completed.
4. The financial status information (lines 10(d) through 10(o) as well as line 11) on the form are to be completed.
5. The awardee shall report program outlays and program income on the same accounting basis (i.e., cash or accrual) that it uses in its normal accounting system.
6. Lines 10i, 10j, and 10k are to report matching contributions which are not a requirement of a SBIR award; therefore, these lines do not need to be completed.
7. There should not be any unliquidated obligations reported on the final SF-425 report. If the awardee still has valid obligations that remain unpaid when the SF-425 is due, it shall request an

extension of time to submit the report. Further, when a final report is overdue (beyond the 90-day period following the award expiration date and not covered by an approved extension of the due date for submission of the report), the grant account will be suspended, which restricts the awardee's ability to draw funds. If any remaining funding is needed by the awardee, the awardee must contact AMD and request a draw providing AMD with justification and documentation to support the draw. Such draw requests will only be approved in extenuating circumstances, as determined by NIFA. Regardless of extensions given for the submission of the SF-425, funds will not be available for any drawdowns that exceed statutory limits as well as any expiring appropriations.

C. PATENTS, INVENTIONS, INCLUDING PLANT VARIETY PROTECTION, AND COPYRIGHTS

The central point of contact within NIFA for questions and issues pertaining to patents and inventions (this does not include questions and issues regarding Interagency Edison) including plant variety protections (PVP) is:

Planning, Accountability, and Reporting Staff
National Institute of Food and Agriculture, USDA
STOP 2213
1400 Independence Avenue, S.W.
Washington, D.C. 20250-2213
Telephone: (202) 720-5623
E-mail: bayhdole@nifa.usda.gov

Invention Disclosure and Related Information Requirements. 37 CFR Part 401.14(c)(1) requires the disclosure of each subject invention to the Federal Agency within two months after the inventor discloses it in writing to contractor personnel responsible for such matters. Under 35 USC 201(d), an invention means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the US Code, or any novel variety of plant which is or may be protectable under the Plant Variety Protection Act (7 USC 2321 et seq), pursuant to 37 CFR 401.2(c). Invention disclosure statements pursuant to 37 CFR Part 401.14(c) shall be made by creating an invention record using Interagency Edison. If possible, all supporting documentation shall also be submitted electronically using Interagency Edison. Any required paper correspondence should be sent to the NIFA central point of contact as noted above.

Invention Disclosure

Electronic Submission Via Interagency Edison Web Interface: Interagency Edison (iEdison) can be accessed at <http://www.iEdison.gov>. An overview of the invention iEdison reporting process, an iEdison tutorial, and extensive help text can be found as links on the iEdison home page. Requests for detailed instructions or other questions regarding Interagency Edison should be directed to:

Division of Extramural Inventions and Technology Resources (DEITR)
National Institutes of Health (NIH)
6705 Rockledge Drive, Suite 310, MSC 7980
Bethesda, Maryland 20892-7980
Telephone: (301) 435-1986
Facsimile: (301) 480-0272
E-mail: Edison@nih.gov

The report of the invention and a copy of the signed invention disclosure must be reported electronically through the Interagency Edison Web interface. To submit the signed disclosure electronically requires that it be rendered as a PDF or TIFF file. The signed disclosure should contain a brief description of the original

invention including the Title, Inventor(s) Name(s), and source of Federal support used (e.g., Agency Award Number). After the report and disclosure are received in the iEdison system NIFA will have access to a copy of the disclosure document.

Other Invention, Patent, and Utilization Reporting Information

Electronic Submission Via Interagency Edison Web Interface: The Interagency Edison is to be used to exact any changes to the disposition of the invention, including title election or non-election, assignment of rights to third parties, patent application(s) or PVP(s), and patents or PVP(s) received.

As with the invention disclosure, iEdison also supports electronic submission of documents required for several other aspects of the Bayh-Dole reporting process, as detailed below.

1. Once a patent or Plant Variety Protection (PVP) is applied for and an application serial number is available, an executed confirmatory license to the Government must be submitted. Such a license must also be submitted in instances where the invention has been licensed but not patented (as is the case of biological materials). For this purpose iEdison provides a confirmatory license template that can be submitted via facsimile.
2. Commensurate with patent or PVP application or issued patent or PVP certificate the awardee organization must submit a copy of the portion of the patent or PVP application that contains the "Government Support Clause," offering proof of formal acknowledgment of Government support of the patent's underlying invention. For PVP applications, the government support clause must be inserted in Exhibit E, block 11. of the application.
3. Requests for assignment of rights to third parties (e.g., the inventor) must include certification by the inventor. The certification process is defined and can be carried out as described under the USDA/NIFA link on the iEdison home page. The signed certification must be submitted to the NIFA office listed above.
4. Requests for waiver of the domestic manufacturing requirement must be submitted to the NIFA office listed above, including a detailed justification.

Title Election and Patent or Plant Variety Protection (PVP) Submission. Within two years of an invention disclosure, a recipient must resolve the title to the invention, that is, either to elect to retain invention rights or waive rights. Should the recipient decide to elect title, recipient must file a non-provisional patent or PVP application must be filed, or notify this agency of its intentions pursuant to 37 CFR Part 401.14(c)(2) and (3). If the recipient fails to either 1) notify the Government of its intentions or 2) exercise its option to file for a patent within the specified time periods, then the Government may exercise its right of ownership pursuant to 37 CFR Part 401.14(d)(1) and (2).

The Government shall not be entitled to publicly disclose or publish research results except under any one of the following circumstances:(1) The award recipient publicly discloses or gives permission for publication; or (2) The award recipient does not elect to file for a U.S. patent or PVP on such results, pursuant to 37 CFR Part 401.14(c)(2) and (3); or (3) After the award recipient files for a U.S. patent or PVP pursuant to 37 CFR Part 401.14(c)(3).

"Publications" include publicly accessible databases such as Genbank; and "research results" include genome maps and sequences.

Copyrights - See 2 CFR Part 200.315(b).

D. GENOME MAP AND SEQUENCE DATA DISCLOSURE

1. If genome sequence data has been obtained, the sequence must be submitted to GenBank. The date of submission to GenBank shall be the same date as the Government's right to publish.

Submission of data to GenBank is without charge. Information concerning GenBank protocols may be obtained via the Worldwide web, <http://www.ncbi.nlm.nih.gov/>, or by contacting the National Center for Biotechnology Information at the following address:

National Center for Biotechnology Information
National Library of Medicine
Building 38A, Room 8N805
Bethesda, MD 20894
Telephone: (301) 496-2475
Facsimile: (301) 480-9241

Recipients who submit genome sequencing data information to GenBank must report this fact as part of the final reporting requirements found in these terms and conditions.

2. **Release of Animal or Plant Genome Sequence Data and Distribution of Animal or Plant Genomic Resources.** All investigators funded by NIFA must submit animal or plant genome and protein sequence data and distribute animal or plant genomic resources generated by NIFA funding as described below. Genome sequences, protein sequences, and genomic resources must be available to all **for use without restriction**. Pre-publication release of genome sequence data has been of tremendous benefit to the scientific research community and NIFA strives to ensure that such rapid release of sequence data continues. NIFA strongly encourages the entire scientific community to recognize that the continued success of the system of pre-publication data release requires active community-wide support. **There should be no restrictions** on the use of the genomic sequence data, but the best interests of the community are served when all act responsibly to promote the highest standards of respect for the scientific contributions of others. Investigators are also encouraged to collaborate and make information available via the relevant worldwide web sites.
 - a. NIFA supports the currently accepted community standards (Bermuda and Ft. Lauderdale agreements; <http://www.genome.gov/Pages/Research/WellcomeReport0303.pdf>) for rapid release of genome sequences following the current guidelines for quality assessment as described by the National Institutes of Health (NIH) National Human Genome Research Institute (NHGRI) at: www.genome.gov/10000923 and www.genome.gov/10001812). Recipients of NIFA funding who submit genome sequencing data to public nucleotide sequence databases must report this fact as part of the final reporting requirements identified in these terms and conditions.
 - b. *Large-insert clone-based projects:* DNA sequence assemblies of 2kb or greater are to be deposited in a pre-existing public nucleotide sequence database (such as GenBank: www.ncbi.nlm.nih.gov) within 24 hours of generation. Sequence traces from these projects are to be deposited in a trace archive (such as the National Center for Biotechnology Information {NCBI} Trace Repository) within one week of production.
 - c. *Whole genome shotgun projects:* Sequence traces from whole genome shotgun projects are to be deposited in a trace archive (NCBI Trace Repository or Ensembl Trace Server) within one week of production. Whole genome assemblies are to be deposited in a public nucleotide sequence database as soon as possible after the assembled sequence has met a set of quality evaluation criteria.
 - d. *Expressed sequence tags (EST), full-length cDNA sequences, plasmid sequences, etc.:* Other nucleotide sequences such as ESTs, full-length cDNA sequences, etc. must be submitted to a pre-existing public nucleotide sequence database (such as Genbank: www.ncbi.nlm.nih.gov)

according to the currently accepted community standards (Bermuda and Ft. Lauderdale agreements) following the current guidelines for quality assessment. At a minimum, these sequences should be deposited within one month of production and quality assessment.

- e. *Other Community Resource Projects:* A community resource project is defined as a research project specifically devised and implemented to create a set of data (e.g., single nucleotide polymorphisms, SNP; haplotype maps), reagents, or other material(s) (e.g., plant genetic stocks) whose primary utility will be as a resource for the broad scientific community. NIFA requires that results of community resource projects be made immediately available for free and unrestricted use by the scientific community as soon as the quality of these resources is verified. At the same time, it is crucial that the scientific community recognizes and respects the important contribution made by the scientists who carry out community resource projects.
- f. *Microarray Projects:* NIFA requires that data collection and analysis for microarray projects comply with the Minimum Information about Microarray (MIAME; www.mged.org) guidelines. NIFA also encourages use of the MIAME checklist (www.mged.org/Workgroups/MIAME/miame_checklist.html) to enable unambiguous interpretation of the data and potential verification of the conclusions. Data from microarray projects funded by NIFA must be submitted to a pre-existing public repository for microarray data (such as Gene Expression Omnibus {GEO}: www.ncbi.nlm.nih.gov/geo) as part of the process for publishing the experimental results in a peer-reviewed scientific journal. Data from plant microarrays should also be submitted to the PLEXdb (www.plexdb.org/) to enable comparative analysis with additional plant gene expression data sets. If the Project Director decides not to publish the microarray data generated with NIFA funding, NIFA requires the Project Director to submit the microarray data to a pre-existing public repository for microarray data within six months after performing quality control tests on the data or upon termination of the NIFA funding, whichever comes first.
- g. *Protein Sequence:* Protein sequences generated with NIFA funding must be deposited in a pre-existing public database (such as the Universal Protein Resource {UniProt}: www.uniprot.org) as part of the process for publishing the experimental results in a peer-reviewed scientific journal. If the Project Director decides not to publish the protein sequence data generated with NIFA funding, NIFA requires the Project Director to submit the protein sequence data to a pre-existing public database within six months after performing quality control tests on the data or upon termination of the NIFA funding, whichever comes first.

If NIFA funding produces additional genomic resources (libraries, biological reagents, software, plant genetic stocks, etc.) these should be made available to the public as soon as their quality is verified according to community standards. Budgeting and planning for short-term and long-term distribution of these resources and the timing of release to a clearly identified community of users as well as to the scientific community as a whole should be as described in the original application or in a revised plan of work prior to funding. The description should be specific and describe what, how, and when the community would have public access to the information and deliverables from the project. Resources generated from NIFA funding must be available to all segments of the scientific community, including industry and the international community. A reasonable charge is permissible for distribution, but the fee structure must be outlined prior to funding. If accessibility differs between industry and the academic community, the differences must be clearly described in the original application or in a revised plan of work prior to funding.

When the project involves the use of proprietary data or materials from other sources, the data

or materials resulting from research supported by this program must be readily available without any restrictions to the users (no reach-through rights). The terms of any usage agreements should be stated clearly in the application or revisions prior to funding.

- h. *Release or Distribution of Animal Quantitative Trait Loci (QTL)*. Information pertaining to animal QTL that were generated with NIFA funding must be deposited into a pre-existing, public database as part of the process for publishing the experimental results in a peer-reviewed scientific journal. If the Project Director decides not to publish the animal QTL data generated with NIFA funding, NIFA requires the Project Director to submit the animal QTL data to a pre-existing, public database within six months after performing quality control tests on the data or upon termination of NIFA funding, whichever comes first.
- i. *Release or Distribution of Plant Germplasm*. If plant germplasm (including mutant populations, mapping populations, diversity panels for association analysis, transgenics, near isogenic lines, etc.) was developed and/or evaluated as part of a NIFA-funded-project, these resources should be available to other researchers for validation of published results or additional research. Distribution of plant germplasm for commercial purposes may be limited by the producer of the germplasm. Whether these resources were created and/or evaluated inside or outside the US, researchers are strongly encouraged to deposit germplasm, transgenic plants, mutants, plant populations, etc. into the National Plant Germplasm System or Stock Center. NIFA encourages Project Directors to confer with the Crop Curators and Crop Germplasm Committees in the USDA National Plant Germplasm System (NPGS) (www.ars-grin.gov/npgs/index.html) regarding the desirability of depositing genetic stocks and experimental plant populations generated by NIFA funding in the NPGS genebanks.
- j. *Release or Distribution of Animal Germplasm*. If animal germplasm or tissue was developed and/or evaluated as part of a NIFA funded project, these resources should be available to other researchers and industry for validation of published results or additional research. Researchers are strongly encouraged to deposit germplasm and or tissue with the USDA-ARS National Animal Germplasm Program (http://nrcc.ars.usda.gov/A-GRIN/main_webpage/ars?record_source=US) genebank.
- k. *Genetic Resources from Outside the United States*. If this project will use genetic resources from outside the United States, it is strongly recommended that the Project Director seek information regarding any required prior informed consent from and benefit-sharing with the appropriate host country authorities. For further information, see “Information for U.S. Government Funded Researchers Collecting In Situ Genetic Resources Outside the United States,” housed on the U.S. Department of State’s web site at: <http://2001-2009.state.gov/g/oes/rls/or/25962.htm>. Researchers must also obtain permits and follow USDA/APHIS importation regulations (http://www.aphis.usda.gov/import_export/index.shtml). Contact the Plant Exchange office, ARS, USDA, at: <http://www.ars.usda.gov/News/docs.htm?docid=18724> or the National Animal Germplasm Program at: <http://www.ars.usda.gov/AboutUs/AboutUs.htm?modecode=54-02-05-03>, as appropriate for further guidance on archiving the collections.

E. REPORTING OF ACCIDENTS OR RELEASES INVOLVING RECOMBINANT DNA

Accidents or releases involving rDNA used in NIFA-funded research are to be considered a serious adverse event and the reporting requirements of Appendix M-I-C-4-a. Safety Reporting: Content and Format and Appendix M-I-C-4-b. Safety Reporting: Time frames for Expedited Reports of the NIH

Guidelines are to be followed accordingly. Further, such incidents must be reported to NIFA as soon as possible (i.e., within 48 hours) but not later than 7 calendar days after the sponsor's initial receipt of the information (in the case of fatal or life-threatening incidents) or not later than 15 calendar days after the sponsor's initial receipt of the information (if the incident is not fatal or life-threatening). Copies of initial reports and subsequent monitoring or remediation reports and documentation must be sent to:

Agency Research Integrity Officer (ARIO)
Phone: 202-401-1761
E-mail: misconduct@nifa.usda.gov

For U.S. Mail:
USDA-NIFA Institute of Food Production and Sustainability
Stop 2240 1400 Independence Avenue, SW
Washington, DC 20250-2240
For Hand Delivery:
USDA-NIFA Institute of Food Production and Sustainability
Room 3359 Waterfront Centre
800 9th Street, SW
Washington, DC 20024

14. PAYMENTS

NIFA designates the Automated Standard Applications for Payment System (ASAP), operated by the Department of Treasury's Bureau of the Fiscal Service, as the payment system for SBIR award funds. For more information see <http://nifa.usda.gov/tool/asap>.

Requests for payment should be in accordance with ASAP instructions. All questions relating to payments should be submitted to:

Financial Management Division
Office of Grants and Financial Management
National Institute of Food and Agriculture
U.S. Department of Agriculture
STOP 2298
1400 Independence Avenue, S.W.
Washington, D.C. 20250-2298
Telephone: (202) 401-4527

If an awardee is a sole proprietorship, funds awarded shall be deposited in a separate bank account and NIFA, through the Financial Operations Division (FOD), shall be informed of the name and location of the bank. In addition, arrangements must be reached between the awardee and the bank of deposit of the award funds in accordance with the following: the account must be of a nature that permits the bank of deposit to return unused funds remaining in that account to NIFA in the event of the awardee's demise. However, NIFA shall not be named a joint owner of such an account, but rather as beneficiary. These arrangements also must be reported to the FOD.

Phase I Payment Schedule

In accordance with 2 CFR 200.305, requests for payment shall be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project. The timing and amount of cash advances

shall be as close as is administratively feasible to the actual disbursements by the recipient organization for direct program or project costs and the proportionate share of any allowable indirect costs.

If the grantee has requested indirect costs, these funds may be withheld until NIFA can review the requested indirect cost rate and approve the rate in accordance with applicable laws and regulations.

Phase II Payment Schedule

Payments shall be made according to the following schedule:

- a. Aggregate payment requests of up to 50% of total award dollars will be honored during the first half of the project minus any requests for Indirect Costs that have to be negotiated. NIFA reserves the right to further restrict additional funds until the grantee provides requested documents per the award face sheet.
- b. The additional 50% of total award dollars will be paid to the awardee upon acceptance and approval of the Interim Technical Report as described in Section 13: SBIR Reporting Requirements.

If the grantee has requested indirect costs, these funds may be withheld until NIFA can review the requested indirect cost rate and approve the rate in accordance with applicable laws and regulations.

Expiring Appropriations

Generally, the appropriated funds that support awards expire after 5 years and the account is closed. This means that in the fifth year following an appropriation, any award funds that have not been drawdown by August 31 of that year by the awardee are subject to be returned to the Department of the Treasury. To determine the appropriation year of award funds, see block 17. Funds Chargeable of the Award Face Sheet (Form NIFA-2009). This block contains a two-digit fiscal year followed by a financial data code (FDC). In the following example, "17-823-33610," the first two numbers "17" represent the fiscal year "20." In this example it means that the funds must be drawdown by August 31 of the year 2022.

NIFA awards supported with funds from other Federal agencies (reimbursable funds). NIFA may require that all draws and reimbursements for awards supported with reimbursable funds (from other Federal agencies) be completed prior to June 30th of the 5th fiscal year after the period of availability for obligation ends to allow for the proper billing, collection, and close-out of the associated interagency agreement before the appropriations expire. The June 30th requirement also applies to awards with a 90-day period concluding on a date after June 30th of that fifth year.

Appropriations cannot be restored after expiration of the account.

If you have questions about whether an applicable appropriation will expire after 5 years, contact the Administrative Point of Contact identified in block 14 of the Award Face Sheet, Form NIFA-2009.

15. COMMERCIALIZATION ASSISTANCE TRAINING PROGRAM

The USDA offers a Phase I and Phase II commercialization assistance training program.

The Phase I program provides support to SBIR grantees to develop a Commercialization Plan which is a required document for a Phase II submission. Phase I grantees can opt out of the program if they wish.

Phase II awardees are **required** to participate in a USDA SBIR Phase II Commercialization Assistance Training Program (CATP) during their first year of funding which involves: 1) the Project Director's (PD) attendance at the USDA SBIR commercialization workshop held in the Washington DC area, and 2) completion of a Commercialization Strategy Report (CSR).

SBIR commercialization workshop. The awardee may use grant funds to cover the cost of travel and lodging or is otherwise responsible for such costs.

Commercialization Strategy Report (CSR). The awardee is expected to work cooperatively with the commercialization assistance contractor in the development of a CSR. The CSR is to include recommendations to assist the awardee in working towards completion of the project's commercialization objectives. Upon the grantees completion of the CSR and approval by the USDA contractor, the contractor is responsible for submitting the final CSR report to the USDA SBIR Office at sbir@nifa.usda.gov. USDA SBIR staff will review the CSR, however there is no formal approval process other than to ensure that both the grantee and the NIFA contractor met the requirements to develop the CSR. The CSR is intended for the grantee to use in developing future plans to continue moving the innovation into a commercial market. Any Phase II grantee that does not submit the CSR will be contacted by both USDA NIFA staff and the contractor requesting the deliverable be completed. The awardee is then responsible for working towards completion of the project's commercialization objectives in accordance with the CSR after the Phase II grant is complete.

16. ACKNOWLEDGMENT OF USDA NIFA SUPPORT AND DISCLAIMER

As outlined in [2 CFR 415.2](#), the GRANTEE shall have an acknowledgement of USDA awarding agency support placed on:

1. any publications written or published with grant support and, if feasible, on any publication reporting the results of, or describing, a grant-supported activity, and
2. any audiovisual which is produced with grant support and which has a direct production cost to the recipient of over \$5,000.

When acknowledging USDA support in accordance with 2 CFR Part 415, grantees must use the following acknowledgment for all projects or initiatives supported by NIFA:

"This material is based upon work that is supported by the National Institute of Food and Agriculture, U.S. Department of Agriculture Small Business Innovation Research (SBIR) Program, under award number XXXX-XXXXX-XXXXX."

We also expect that you will use NIFA's official identifier in all of your publication, posters, websites and presentations resulting from your award. This identifier can be found at <http://nifa.usda.gov/resource/official-nifa-identifier>.

In addition, all publications and other materials, except scientific articles or papers published in scientific journals, must contain the following statement:

"Any opinions, findings, conclusions, or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the view of the U.S. Department of Agriculture."

Press Announcements and Media Interviews

Recommended awards should not be announced in any manner by a grantee until approval is obtained by NIFA's communication office. This applies to press releases, newsletters, and press interviews, web or social media postings. In many cases, the Secretary of Agriculture may want to personally announce the award.

NIFA grant awardees are requested to coordinate all public announcements with NIFA's Communication Staff at CommunicationsStaff@nifa.usda.gov. Simultaneous announcement by NIFA and the grantee are preferred.

The awardee is responsible for acknowledging NIFA support during news media interviews, including popular media such as radio, television and new magazines that discuss work supported by NIFA.

17. RELEASE OF INFORMATION

The Freedom of Information Act of 1966 (5 U.S.C. 552) and the Privacy Act of 1974 (5 U.S.C. 552a), as implemented by USDA's regulations (7 CFR Part 1.1) and supplemented by NIFA regulations found at 7 CFR Part 3404, shall govern the release or withholding of information to the public in connection with this award. The release of information under these laws and regulations applies only to records held by NIFA and imposes no requirement on the awardee or on any subrecipient to permit or deny public access to their records. Requests for records or the release of information relating to this award should be directed to:

FOIA Coordinator
Information Staff, ARS
U.S. Department of Agriculture
Mail Stop 5128
5601 Sunnyside Avenue
Beltsville, Maryland 20705-5128
Telephone: (301) 504-1640

The regulations cited herein do not affect the retention period for project-related records or rights of access to such records or documents by NIFA, the Comptroller General, or their authorized representatives.

18. SHARING OF FINDINGS, DATA, AND OTHER PROJECT PRODUCTS

The PD/PI is encouraged to publish or otherwise make publicly available the results of work conducted under this award except in cases where such disclosure would jeopardize proprietary information developed during the course of the project.

At such time as any article resulting from research work under this award is published in a scientific, technical, or professional journal or publication, two reprints of the publication clearly labeled with the award number and other appropriate identifying information should be sent to the program point of contact identified in the award. This includes notifying the program point of contact, via a listing clearly labeled with the award number, any World Wide Web-based materials resulting from the work.

19. DATA COLLECTION

The provisions of 5 CFR Part 1320 apply if this award involves the collection of identical information from ten or more non-Federal persons or organizations and the collection of information is sponsored by USDA. A collection of information undertaken by an awardee is considered to be conducted or sponsored by the department if: (1) the awardee is conducting the collection of information at the specific request of the Department; or (2) the terms and conditions of the award require specific approval by the agency of the

collection of information or collection procedures.

Any data collection activities performed under this award are the responsibility of the awardee, and USDA support of the project does not constitute USDA approval of the survey design, questionnaire content, or data collection procedures. The awardee shall not represent to respondents that such data are being collected for or in association with USDA or any other Federal Government agencies unless such data are sponsored by the Department. However, this requirement is not intended to preclude mention of USDA support of the project in response to an inquiry or acknowledgment of such support in any publication of this data.

20. NONEXPENDABLE EQUIPMENT

Title to nonexpendable equipment purchased with award funds shall vest in the awardee upon completion of the award project and acceptance by USDA of required reports in accordance with these terms and conditions. Such equipment shall be subject to the provisions of 2 CFR 200.313.

When the equipment is no longer needed by the awardee and the per unit fair market value is less than \$5,000, the awardee may retain, sell, or dispose of the equipment with no further obligation to NIFA. If, on the other hand, the per unit fair market value is \$5,000 or more, then the awardee must submit a written request to the ADO for disposition instructions.

21. INTEREST INCOME

Per 2 CFR 200.305(b)(9), interest earned amounts up to \$500 per year may be retained by the recipient for administrative expenses. Unless the grantee (or subrecipient) is a State or local government, interest or investment income earned on Federal advances deposited in interest bearing accounts shall be remitted annually through ASAP. Contact ASAP through the email address of asapcustomerservice@nifa.usda.gov and FOD staff will provide the necessary assistance to facilitate the return of the interest income.

22. RECORD KEEPING

Accounting records for all costs incurred under this award must be supported by source documentation. Such documentation includes, but is not limited to, time and effort reports, job orders, canceled checks, invoices, paid bills, payroll records, and subcontract award documents if applicable. Labor costs charged to this project must be based upon salaries actually earned and the time actually worked on the project. Time and effort records must be maintained for any salary expenditures charged to this award. Furthermore, all project costs must be incurred within the approved project period of this award, including any no-cost extensions of time approved by the ADO. **Costs which cannot be supported by source documentation or which are incurred outside of the approved project period may be disallowed and may result in award funds being returned to the Federal government by the awardee.**

23. REPORTING SUBAWARDS AND EXECUTIVE COMPENSATION

In accordance with the Office of Management and Budget guidance published in the Federal Register (FR), 75 FR 55663, on September 14, 2010, "Requirements for Federal Funding Accountability and Transparency Act Implementation," awardees must comply with the requirements of this award term.

Reporting of first-tier subawards

1. **Applicability.** Unless you are exempt as provided in this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009,

- Pub. L. 111-5) for a subaward to an entity (see definitions this award term).
2. **Where and when to report.**
 - a. You must report each obligating action described in this award term to <http://www.fsrc.gov>.
 - b. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
 3. **What to report.** You must report the information about each obligating action that the submission instructions posted at <http://www.fsrc.gov> specify.

Reporting Total Compensation of Recipient Executives

1. **Applicability and what to report.** You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if
 - a. the total Federal funding authorized to date under this award is \$25,000 or more;
 - b. in the preceding fiscal year, you received; (A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the transparency Act, as defined at 2 CFR 170.320 (and subawards); and (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - c. The public does not have access to information about the compensation of the Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
2. **Where and when to report.** You must report executive total compensation described in this award term:
 - a. As part of your registration profile at <http://www.ccr.gov>.
 - b. By the end of the month following the month in which this award is made, and annually thereafter.

Reporting of Total Compensation of Subrecipient Executives

1. **Applicability and what to report.** Unless you are exempt as provided in this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, If
 - a. in the subrecipient's preceding fiscal year, the subrecipient received (A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
 - b. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

2. **Where and when to report.** You must report subrecipient executive total compensation described in this award term:
 - a. To the recipient.
 - b. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

Exemptions

If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

- a. Subawards, and
- b. The total compensation of the five most highly compensated executives of any subrecipient.

Definitions

For purposes of this award term:

1. **Entity** means all of the following, as defined in [2 CFR part 25](#):
 - a. A Governmental organization, which is a State, local government, or Indian tribe;
 - b. A foreign public entity;
 - c. A domestic or foreign nonprofit organization;
 - d. A domestic or foreign for-profit organization;
 - e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
2. **Executive** means officers, managing partners, or any other employees in management positions.
3. **Subaward**:
 - a. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
 - b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. ---- .210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
 - c. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.
4. **Subrecipient** means an entity that:
 - a. Receives a subaward from you (the recipient) under this award; and
 - b. Is accountable to you for the use of the Federal funds provided by the subaward.
5. **Total compensation** means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
 - a. Salary and bonus.
 - b. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
 - c. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
 - d. Change in pension value. This is the change in present value of defined benefit and

- actuarial pension plans.
- e. Above-market earnings on deferred compensation which is not tax-qualified.
- f. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

24. LABORATORY SECURITY

NIFA encourages all awardees to adopt appropriate laboratory security policies and procedures for facilities that work with any level of biological or chemical materials. Until the Federal Government develops applicable security standards, awardees are encouraged to consult the following resources for guidance on laboratory security:

- USDA Departmental Manual 9610-1, “USDA Security Policies and Procedures for Biosafety Level-3 Facilities” (available at <http://www.ocio.usda.gov/policy-directives-records-forms/directives-categories>);
- USDA Departmental Manual 9610-2, “USDA Security Policies and Procedures for Laboratories and Technical Facilities (Excluding Biosafety Level (BSL)-3 Facilities)” (available at <http://www.ocio.usda.gov/policy-directives-records-forms/directives-categories>); and
- Federal Select Agent Program(see <http://www.selectagents.gov/index.html>).

25. RESPONSIBLE AND ETHICAL CONDUCT OF RESEARCH

The responsible and ethical conduct of research (RCR) is critical for excellence, as well as public trust, in science and engineering. Consequently, education in RCR is considered essential in the preparation of future scientists. By accepting a NIFA award the grantee assures that program directors, faculty, undergraduate students, graduate students, postdoctoral researchers, and any staff participating in the research project receive appropriate training and oversight in the responsible and ethical conduct of research and that documentation of such training will be maintained. Grantees are advised that the documentation of the training is subject to NIFA review upon request.

Note that the training referred to herein may be either on-site or off-site training. The general content of the ethics training, at a minimum, will emphasize three key areas of research ethics: authorship and plagiarism, data and research integration and reporting misconduct. You are responsible for developing your own training system, as organizations need flexibility to develop training tailored to their specific needs. Grantees should consider the Collaborative Institutional Training Initiative (CITI) program for RCR (<https://www.citiprogram.org/rcrpage.asp>). Typically this RCR education addresses the topics of: Data Acquisition and Management - collection, accuracy, security, access; Authorship and Publication; Peer Review; Mentor/Trainee Responsibilities; Collaboration; Conflict of Interest; Research Misconduct; Human Subject Research; and Use of Animals in Research.

26. APPENDIX

Appendix A

SBIR/STTR Certification Statement (12-19-2016)

USDA SBIR Award Number:	Project Title:
Date:	Period Covered by this Report:
Company Name:	PI Name:
Telephone Number:	Email Address:
Company Address:	
USDA SBIR National Program Leader:	

Please check as appropriate:

- Phase I Award Interim Report
- Phase I Award Final Report
- Plan to submit Phase II Proposal
- Phase II Award Interim Report
- Phase II Award Final Report

- Check if report contains Proprietary Information

Acknowledgment of USDA support and disclaimer:

“This material is based upon work supported by the U.S. Department of Agriculture (USDA) under Award Number: _____. Any opinions, findings, and conclusions or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the USDA.”

SBIR Funding Agreement Certification – Life Cycle Certification

All USDA SBIR Phase I and Phase II awardees must complete this certification at all times set forth in the funding agreement and the grant terms and conditions. This includes checking all of the boxes and having an authorized officer of the awardee sign and date the certification each time it is requested.

Please read carefully the following certification statements. The Federal government relies on the information to ensure compliance with specific program requirements during the life of the funding agreement. The definitions for the terms used in this certification are set forth in the Small Business Act, the SBIR Policy Directive, and also any statutory and regulatory provisions referenced in those authorities.

If the USDA SBIR National Program Leader or Authorized Departmental Officer (ADO) believes that the business is not meeting certain funding agreement requirements, the agency may request further clarification and supporting documentation in order to assist in the verification of any of the information provided.

Even if correct information has been included in other materials submitted to the Federal government, any action taken with respect to this certification does not affect the Government's right to pursue criminal, civil or administrative remedies for incorrect or incomplete information given in the certification. Each person signing this certification may be prosecuted if they have provided false information.

The undersigned has reviewed, verified and certifies that (one box must be checked for each):

The principal investigator is/was "primarily employed" by the awardee as defined in the solicitation during the term of the funding agreement, or the awardee has requested and received a written deviation from this requirement from the USDA.

- Yes No Deviation approved in writing by the USDA.

All, essentially equivalent work, or a portion of the work performed under this project (check the applicable line):

- Has not been submitted for funding by another Federal agency.
 Has been submitted for funding by another Federal agency but has not been funded under any other Federal grant, contract, subcontract or other transaction.
 A portion has been funded by another grant, contract, or subcontract as described in detail in the proposal and approved in writing by the USDA.

The work is completed and awardee has performed the applicable percentage of work, unless a deviation from this requirement is approved in writing by the USDA (check the applicable line and fill in if needed):

- SBIR Phase I: at least two-thirds ($66\frac{2}{3}\%$) of the research performed by the awardee. SBIR
 Phase II: at least half (50%) of the research by the awardee.
 Not applicable because the work has not been completed at this time

The work for which payment is hereby requested was performed in accordance with the award terms and conditions and that payment is due and has not been previously requested.

- Yes No payment requested A deviation in payment has been approved in writing by the USDA.

All of the funds committed to this award, including all associated supplemental awards, have been fully expended as designated in the grant budget.

- Yes
 No (Please provide a detailed explanation in the report)
 Not applicable because the work has not been completed at this time.

The research/research and development is/was performed in the United States unless a deviation is approved in writing by the USDA.

- Yes No Waiver has been granted.

The research/research and development is/was performed at the awardee's facilities described in the proposal by the awardee's employees, except as otherwise indicated in the SBIR application and approved in the funding agreement.

- Yes No

- I will notify USDA immediately if all or a portion of the work proposed is subsequently funded by another Federal agency.

- I understand that the information submitted may be given to Federal, State and local agencies for determining violations of law and other purposes.

I certify that to the best of my knowledge (1) the statements herein (excluding scientific hypotheses and scientific opinions) are true and complete, and (2) the text and graphics in this report as well as any accompanying publications or other documents, unless otherwise indicated, are the original work of the signatories or individuals working under their supervision. I understand that the willful provision of false information or concealing a material fact in this report or any other communication submitted to USDA is a criminal offense (U.S. Code, Title 18, Section 1001).

Authorized Company Officer Name: _____

Title: _____

Signature: _____ **Date:** _____

PI Name : _____

P.I. Signature: _____ **Date:** _____

Appendix B

Impact Statement

Phase II grantees are required to provide the following information during the final out briefing. The following information is to be used to promote the USDA SBIR project and also promote the program. The answers to these questions should not contain any proprietary information, however the answers should clearly describe the benefits and impacts of the project. The language to be used should be simplified to describe the innovation and its impacts to a non-scientific group of individuals.

1. What kind of impact did this project/program have?
2. Who was impacted?
3. Where did this impact occur?
4. What did project/program members do to achieve this impact? What major accomplishments, study results or outputs led to this impact?
 - a. Did the project/program use any unique or innovative methods/tools?
 - b. Who was involved?
5. What issue were the researchers trying to address?
 - a. Who cares about this issue?
 - b. Why do they care about the issue?
 - c. Buzz words or hot topic related to this issue/project/program?
6. Any anecdotes?
7. Any potential future impacts?