

In Title 3, California Code of Regulations, Division 1, Chapter 5, adopt:

Chapter 5. Grant Administration

**400 Applicability**

400.1 These regulations are only applicable to grants funded by non-federal funds. These regulations are not applicable to grants funded by federal funds, including federal funds received as pass-through funds.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

**401 Definitions**

- (a) For purposes of this chapter, the following definitions apply:
- (1) Additional conditions. Conditions imposed based on past performance or a risk assessment.
  - (2) Administrative review. A review of a grant application for completeness and eligibility.
  - (3) Advance payment. A payment to a recipient for anticipated or obligated expenditures for the performance of grant award activities.
  - (4) Agreed-upon-procedure or desk review. A review of a random sample of grant award invoices and related documents for monitoring compliance with the requirements of the grant program and terms and conditions of the grant award. Agreed-upon-procedures may be conducted in accordance with the Generally Accepted Government Auditing Standards (GAGAS).
  - (5) Allowable costs. Costs incurred to further the objectives of the grant award that are allowable under the grant program requirements, the grant award terms and conditions, or these regulations. In the event of a conflict, the grant award terms and conditions will take precedence.
  - (6) Application. A formal request to receive a grant award.
  - (7) Application requirements. The elements of an application that must be completed and the items which must be included, as set forth in the Request for Proposals.
  - (8) Audit. An inspection of a recipient's accounts, financial management systems, and internal controls, conducted in accordance with the Generally Accepted Government Auditing Standards (GAGAS), for monitoring compliance with the requirements of the grant program and terms and conditions of the grant award.
  - (9) Audit finding. A determination of non-compliance with the requirements of the grant program or the terms and conditions of the grant award.
  - (10) Authority. The statute, court order, or mandate under which the grant program or the proposed use of the funds is authorized.
  - (11) Budget. The financial plan for the project.
  - (12) Budget narrative. Narrative explanation of the items in each budget category
  - (13) Capacity. The ability of the grant applicant to perform the proposed grant activities and achieve the stated objectives in compliance with the grant program requirements or terms and conditions of the grant award.
  - (14) Capital asset. An asset having a useful life of more than one year. Includes land, buildings, equipment as defined in this section, and intellectual property.
  - (15) Capital expenditures. Expenditures to acquire capital assets or expenditures to make additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that materially increase their value or useful life.
  - (16) Closeout. The process by which the Department determines that all administrative actions and all required grant award activities have been completed, and takes the actions described in section 520 Closeout.

- (17) Conflict of interest. A situation in which a person may derive personal benefit from actions or decisions made in their official capacity.
- (18) Contractor. An entity that undertakes a contract to perform an activity. The term Contractor includes Consultants.
- (19) Cost-share or cost-match. The portion of project costs not borne by the grant award in the form of matching funds or in-kind contributions. Matching funds are cash funds, and in-kind contributions are the value of non-cash contributions, such as property or services.
- (20) Department. The California Department of Food and Agriculture.
- (21) Direct costs. Costs that can be identified specifically with a particular grant award and can be directly attributable to grant award activities relatively easily with a high degree of accuracy. Typical direct costs include but are not limited to compensation (salaries and fringe benefits) of employees who work directly on the award, travel that is necessary to further the objectives of the grant award, and equipment and supplies used solely to further the objectives of the grant award.
- (22) Disallowed cost. Those charges to a grant award determined to be unallowable in accordance with the grant program requirements or the grant award terms and conditions.
- (23) Disqualification. Removal of an application from the grant application process due to one or more bases for disqualification as set forth in the Request for Proposals issued for the specific grant program for which the application was received.
- (24) Eligibility criteria. The minimum requirements an entity must meet to be eligible to apply for an award under a specific grant program.
- (25) Eligible entity. An individual or organization that meets the grant program eligibility criteria to receive a grant award.
- (26) Equipment. Tangible personal property having a useful life of more than one year and a per-unit acquisition cost of \$5,000 or more. The acquisition cost includes the cost of any necessary accessories and all incidental costs incurred to put the asset into place and ready for its intended use.
  - a. Special purpose equipment is used only for research, scientific, or other technical activities. For example, electron microscopes, spectrometers, and dairy digesters are special purpose equipment.
  - b. General purpose equipment is not limited to research, scientific or other technical activities. For example, office equipment and furnishings, modular offices, telephone networks, information technology equipment and systems, air conditioning equipment, reproduction and printing equipment, and motor vehicles are general purpose equipment.
- (27) Fixed amount award. A type of award where a specific level of funding is provided, and for which accountability is based primarily on performance and results, rather than actual costs incurred.
- (28) For-profit organization. An organization operated for the purpose of making a profit.
- (29) Funding recommendation. A recommendation presented to the Secretary or designee as to which grant projects should receive a grant award, based on factors including but not limited to the amount of available funding, merits of the application, program priorities, and results of the administrative review.
- (30) Grant. An award of financial assistance made to a recipient, the principal purpose of which is the transfer of funds to carry out a program or project of public benefit authorized and intended by statute or grant program requirements.
- (31) Grant agreement. The agreement document entered into between the Department and the Recipient which sets forth the terms and conditions of the grant award.
- (32) Grant duration or grant period. The time during which the grant agreement is in effect and the recipient may carry out the grant award activities.

- (33) Grant expenditure. A cost incurred and charged to a grant project for which the award was received.
- (34) Grant management procedure manual. A document issued by the Department applicable to each grant program, grant award, or grant year providing information and procedures regarding managing a grant award.
- (35) Grant program. A program that awards grants.
- (36) Indirect costs. Costs incurred for common or joint objectives that cannot be identified specifically with a particular project, program, or organizational activity. Typical indirect costs include but are not limited to administrative or clerical staff costs, rent, utilities and internet service, cellular and land-line telephone service, general office supplies, and insurance.
- (37) Individual. A person who, for the purposes of applying for a grant from the Department, is not associated with an organization, a government agency, or other institution.
- (38) Institution of higher education. An accredited educational institution that is legally authorized to provide an educational program for which the institution awards a bachelor's degree or provides not less than a two-year program that is acceptable for full credit toward such a degree, or awards a degree that is acceptable for admission to a graduate or professional degree program.
- (39) Intellectual property. A copyright, trademark, patent, or invention.
- (40) Key personnel. The Project Director, Project Manager, Principal Investigator, or other person responsible for the project and fulfilling the terms and conditions of the grant award.
- (41) Line item shift. A shift of a budget amount from one budget line item to another.
- (42) Merits of the proposal. The degree to which the elements of a proposal meets the evaluation criteria set forth in the request for proposals.
- (43) Non-federal funds. Funds not received from the federal government. Non-federal funds do not include funds received from the federal government as pass-through funds.
- (44) Non-profit organization. An organization that conducts business for the benefit of the general public without shareholders and without a profit motive, and is exempt from filing income taxes under United States Internal Revenue Code section 501(3)(c).
- (45) Organization. A non-profit or for-profit organization, a state, local or other government, or an institution of higher education. Organization does not mean an individual. See Individual.
- (46) Performance measure. A quantifiable indicator used to assess how well a project is achieving its desired objectives.
- (47) Post-award. The period after a grant is awarded.
- (48) Pre-award. The period prior to the award of a grant, including but not limited to the application period.
- (49) Program income. Gross income earned as a result of the grant award during the grant duration. Program income includes but is not limited to income from fees for services performed, the sale of commodities or items fabricated under the grant award, and license fees and royalties on patents and copyrights.
- (50) Project. An undertaking that is planned to conduct activities and achieve stated goals and objectives for which grant funds were awarded.
- (51) Project description. A summary or abstract of the grant project and what the project will accomplish.
- (52) Project objective. The goal or outcome a grant project is intended to achieve.
- (53) Proposal. A document that contains all necessary information to describe the project plans, objectives, outcomes, performance measures, scope of work, and budget of the proposed project.
- (54) Recipient, awardee, or grantee. An individual or organization to which a grant is awarded. For purposes of these regulations, the term "Recipient" will be used.

- (55) Records retention period. The period of time after the grant award is closed out that a recipient must maintain records related to the grant award.
- (56) Recusal. To excuse oneself from conducting a technical review of an application because of a possible conflict of interest.
- (57) Reimbursement payment. Payment to a recipient for actual and allowable costs incurred for the grant award after the costs are incurred.
- (58) Request for Applications, Request for Concept Proposals, Request for Grant Proposals, or Request for Proposals. A document requesting applications, proposals and submissions, and setting forth the requirements of a specific grant program, including but not limited to the application requirements and submission deadline. For purposes of these regulations, the term “Request for Proposals” will be used.
- (59) Risk assessment. An evaluation of the potential risk for non-compliance by an applicant or recipient with grant program requirements or grant agreement terms and conditions.
- (60) Secretary. The Secretary of the California Department of Food and Agriculture.
- (61) Scope of work. A detailed description of the work to be performed under a grant award. The scope of work typically includes the approved proposal, and reporting and invoicing due dates.
- (62) Site visit. A visit to the project site, or an alternative site such as a headquarters office, to evaluate project progress and for monitoring compliance with the requirements of the grant program and terms and conditions of the grant award.
- (63) Subject matter expert. A person with expertise, experience, or in-depth knowledge in a specified subject.
- (64) Supplant. Replacing existing funds for an activity specifically because grant funds are available or expected to be available to fund that same activity.
- (65) Supplement. Adding to existing funds to enhance or expand existing activities.
- (66) Supplies. Tangible personal property having a useful life of less than one year or a per-unit value of less than \$5,000.
- (67) Suspension. A temporary cessation of a grant agreement and grant project activities due to noncompliance with grant program requirements or grant agreement terms and conditions.
- (68) Technical review. Review by one or more technical reviewers to evaluate the merits of the proposal.
- (69) Termination. The ending of a grant award, in whole or in part, at any time prior to the specified end of the grant duration.
- (70) Unallowable costs. Costs that are not allowable under the grant program requirements, the grant award terms and conditions, these regulations, or other state laws.
- (71) Work plan. A detailed plan of activities to be performed under the grant award, including but not limited to the dates the work will be performed and who will perform the work.
- (b) This section does not preclude grant programs from establishing additional definitions as required by the specific grant program. Additional definitions shall not be inconsistent with this section.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

## **402 Pre-award procedures**

The Department will conduct a pre-award process where applicable prior to awarding grants.

### 402.1 Request for proposals

- (a) The Department will issue a request for proposals for the grant program for which awards will be made pursuant to section 403.
- (b) The Department is not required to issue a request for proposals for which awards will be made pursuant to section 404.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

#### 402.2 Contents of a request for proposals

At a minimum, the request for proposals will state the following:

- (a) Name of grant program.
- (b) Source of funding or authority for the grant program.
- (c) Statement whether the grant application process is competitive or non-competitive.
- (d) Statement that grant applications will undergo an administrative review.
- (e) Statement whether grant applications will undergo a technical review.
- (f) Approximate amount of available funding, if applicable.
- (g) Minimum and/or maximum grant amount that may be requested, if applicable.
- (h) Amount or percentage of cost sharing required, including the nature and limits of the cost sharing allowed.
- (i) Whether the application process is a one-phase or multiple phase process, including a brief description of each phase.
- (j) Pre-award process schedule, including but not limited to the approximate date awards are expected to be announced.
- (k) Eligibility.
- (l) Application requirements.
- (m) Method to submit an application.
- (n) Deadline to submit an application.
- (o) Grant duration.
- (p) Basis or bases for disqualification, and the process to appeal a disqualification.
- (q) Application review process, including evaluation criteria.
- (r) Requirements applicable to the specific grant program and funds awarded under the specified grant program.
- (s) Other information to assist an applicant in submitting a complete application.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

#### **403 Competitive process**

Grant awards will be made on a competitive basis whenever possible. This section applies to grants awarded on a competitive basis.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

#### 403.1 Administrative review

- (a) Applications will undergo an administrative review to determine whether eligibility and application requirements, as set forth in the request for proposals, are met.

- (1) Applications determined ineligible or not meeting application requirements will be disqualified.
- (2) Applications determined eligible and meeting application requirements will undergo a technical review to evaluate the merits of the proposal.
- (b) The administrative review may include a risk assessment, as defined in section 401.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

#### 403.2 Technical review

- (a) Applications will undergo a review by one or more technical reviewers according to evaluation criteria set forth in the request for proposals. The purpose of a technical review is to evaluate the merits of the proposal.
- (b) The technical review may include consideration of the following elements as related to the purpose and requirements of the specific grant program set forth in the request for proposals:
  - (1) The extent to which the proposed activities fulfill the purpose and requirements of the grant program.
  - (2) The extent to which the proposed activities address specified program priorities, if any.
  - (3) The relevance, effectiveness, feasibility, efficiency, and impact of the proposed activities.
  - (4) The capacity of the applicant to successfully administer a grant award.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

#### 403.3 Recommendation for funding

- (a) A recommendation for funding will be based on the following:
  - (1) Amount of available funding.
  - (2) Merits of the proposal.
  - (3) Program or research priorities, if any.
  - (4) Risk assessment pursuant to section 403.1(b), if applicable.
  - (5) Other factors in accordance with grant program requirements.
- (b) Recommendations for funding will be submitted to the Secretary or designee for funding decisions. Funding decisions by the Secretary or designee are final and not subject to appeal.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

### **404 Non-competitive process**

This section applies to grants awarded on a non-competitive basis.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

#### 404.1 Administrative review

Applications will undergo an administrative review as set forth in section 403.1.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

#### 404.2 Technical review

Technical review is not required in a non-competitive process.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

#### 404.3 Recommendation for funding

- (a) A recommendation for funding will be based on the applicable law under which the grant program or the proposed use of the funds is authorized.
- (b) Recommendations for funding will be submitted to the Secretary or designee for funding decisions. Funding decisions by the Secretary or designee are final and not subject to appeal.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

### **405 Disqualification**

- (a) Applications that do not meet the requirements as set forth in the request for proposals may be disqualified. Bases for disqualification include the following:
  - (1) The applicant is not an eligible entity.
  - (2) The application includes activities with dates outside the allowable grant duration.
  - (3) The funding amount requested is less than the minimum award amount allowable or exceeds the maximum award amount allowable.
  - (4) The application is incomplete, including an application with one or more unanswered questions or missing, blank, or unreadable attachments.
  - (5) The application includes unallowable costs or activities.
  - (6) The application is submitted after the submission period has ended.
- (b) Applicants will be notified of the reason(s) for disqualification.
- (c) Applicants may appeal a disqualification as set forth in section 700.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

### **406 Technical reviewers**

#### 406.1 Qualifications

Technical reviewers will be subject matter experts in the subject areas of the grant program, or have other experience or expertise that qualifies the reviewer to perform technical reviews of the grant program applications.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

#### 406.2 Reimbursement for travel expenses

- (a) Technical reviewers may be reimbursed for travel expenses at the rates set by the California Department of Human Resources for travel reimbursement for state employees.
- (b) Technical reviewers shall submit a travel expense claim and supporting receipts or invoices to the Department for reimbursement.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

#### **407 Award notification**

- (a) Successful applicants will be notified of award by letter or electronic mail.
- (b) Notification of award does not authorize commencement of grant activities. Grant activities may not begin until a grant agreement between the recipient and the Department is fully executed.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

#### **500 Post-award procedures**

The Department will manage grant awards in accordance with the following post award procedures.

##### **500.1 Grant agreement**

- (a) A written grant agreement is required for grant awards.
- (b) A grant agreement will include:
  - (1) Grant agreement number.
  - (2) Name of the Recipient.
  - (3) Grant duration.
  - (4) Grant award amount.
  - (5) Name of grant award manager for the Recipient.
  - (6) Name of grant award manager for the Department.
  - (7) Approved project proposal, scope of work and budget.
  - (8) General terms and conditions.
  - (9) Program specific terms and conditions.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

#### **501 Prior approval required**

- (a) Prior approval is required for changes to an approved project proposal, scope of work, or budget. The recipient shall submit a request in writing to the Grant Award Manager or designee for prior approval of the following:
  - (1) Revision of the project, including the objectives, performance measures, or outcomes.
  - (2) Revision of the scope of work, including the activities, dates, or deliverables.
  - (3) Budget changes, including line item shifts or changes to the approved use of funds. The Department may set a threshold at which a line item shift is required. The Department may waive this prior approval requirement; such waiver must be in writing.
  - (4) Extension of the grant duration.
  - (5) Purchase of equipment not included in the approved budget.
  - (6) Rental of land not included in the approved budget.
  - (7) Foreign travel not included in the approved budget.
  - (8) Contracting out or obtaining the services of a third party not included in the approved budget. The Department may waive this prior approval requirement; such waiver must be in writing. Waiver of the prior approval requirement does not waive the requirements of sections 509 and 510.
  - (9) Change in Recipient organization or key personnel.



- (10) Absence of key personnel.
  - (11) Use of program income for purposes other than those set forth in section 508 or in accordance with the grant agreement terms and conditions. The Department may waive this prior approval requirement; such waiver must be in writing.
  - (12) Charging costs that benefit both award and non-award activities to a grant on a proportional basis.
  - (13) Other prior approvals as required in the grant agreement or the guidance available pursuant to section 600.2.
- (b) The request for prior approval will be granted or denied within 15 business days, and will be in writing.
  - (c) Failure to obtain prior written approval may result in disallowance of costs incurred.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

### **502 Access**

- (a) Upon reasonable notification, recipients shall allow the Department or designee access to the project and project site, records and documentation relevant to the grant award, and any employees who may reasonably have information related to the grant award.
- (b) Upon request and within a reasonable time period, recipients shall provide to the Department or designee requested documents and information relevant to the grant award.
- (c) Failure to allow access or provide requested documents and information may result in the Department pursuing remedies for non-compliance as set forth in section 516.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

### **503 Performance compliance**

- (a) Grant awards are subject to a performance compliance review in the form of a site visit.
- (b) Communication technology, such as teleconference, Skype, GoToMeeting, or similar technology, or other alternative methods determined by the grant program, may be used to conduct a performance compliance review.
- (c) Completion of grant award activities or closeout of the grant award does not preclude the Department or designee from conducting a performance compliance review of the grant award.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

### **504 Financial compliance**

- (a) Grant awards are subject to a financial compliance review in the form of an audit, an agreed-upon-procedure, or both.
- (b) Completion of grant award activities or closeout of the grant award does not preclude the Department or designee from conducting a financial compliance review of the grant award.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

## **505 Reports**

- (a) Progress and final reports shall be submitted in accordance with the reporting requirements set forth in the grant agreement.
- (b) Extensions of report due dates must be approved by the Department in writing.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

## **506 Payment**

### **506.1 Advance payment**

- (a) Recipients may be eligible to receive an advance payment for project expenditures.
- (b) An advance payment shall not exceed the amount necessary for project expenses for a three-month period.
- (c) Funds received as an advance payment shall be deposited into a federally-insured, interest-bearing account that provides the ability to track interest earned and withdrawals.
- (d) The period of time between receipt of the advance payment funds and disbursement of the advance payment funds shall be minimized to the extent possible. Failure to liquidate advance payments within the three month period may result in denial of future advance payment requests.
- (e) Interest earned during a six-month period shall be remitted to the Department.
- (f) Advance payment is not allowable under the following circumstances:
  - (1) An existing advance is not completely liquidated.
  - (2) The advance will reduce the project balance below ten percent of the award amount.
  - (3) An unresolved invoice dispute exists.
  - (4) Resolution of an audit or agreed-upon-procedure finding of overpayment, unallowable costs, inadequately supported costs, or unsupported costs is pending.
  - (5) The project is not current in invoicing or reporting.
  - (6) The project is in the final three months of the project duration.
  - (7) Additional conditions imposed prohibit an advance payment.
  - (8) Advance payment is otherwise prohibited by law or grant program requirements.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

### **506.2 Invoices**

- (a) Recipients shall submit invoices for reimbursement of actual expenditures in accordance with the payment requirements set forth in the grant agreement.
- (b) Extensions of invoice due dates must be approved by the Department in writing.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

### **506.3 Delay of payment**

- (a) Payment of an invoice may be delayed if any of the following circumstances apply:
  - (1) An invoice discrepancy or error exists.
  - (2) The invoice or a cost on the invoice is disputed.
  - (3) Unallowable costs are claimed.
  - (4) Unresolved audit or agreed-upon-procedure findings exist.

- (5) The Recipient fails to comply with grant program requirements or grant agreement terms and conditions.
- (6) The project fails to progress satisfactorily according to the approved scope of work.
- (b) The Department may pay the undisputed portion of an invoice.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

#### 506.4 Notification of delay of payment; resolution

- (a) A notification of delay of payment will be issued to the Recipient at the address on record.
- (b) The notification of delay of payment will include:
  - (1) The reasons for delaying payment.
  - (2) The actions required to resolve the issues for delaying payment.
  - (3) The method of appealing the delay.
- (c) Invoices will be processed upon resolution of the reasons for delaying payment.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

#### **507 Withholding of ten percent pending closeout**

- (a) Ten percent of the grant award amount will be withheld by the Department pending approval of the final invoice and final performance report, and resolution of any performance issues or audit findings prior to closeout.
- (b) A notice will not be sent regarding the ten percent withholding, and the ten percent withholding may not be appealed.
- (c) The ten percent withholding may be reduced or waived by the Department; such reduction or waiver must be in writing.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

#### **508 Use of program income**

- (a) Program income may be used in one or more of the following ways:
  - (1) Reinvested into the project for which the grant was awarded, and expended on allowable project costs.
  - (2) Used to meet a cost sharing requirement of the grant award.
  - (3) Deducted from total allowable costs to determine the net allowable costs of the grant award. The amount of the grant award which can be invoiced is decreased by the amount of program income deducted.
- (b) The Department may approve other uses of program income in accordance with section 501.
- (c) There are no requirements governing the disposition of program income earned after the grant duration, unless the grant program requirements or terms and conditions of the grant award provide otherwise.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

## **509 Procurement of goods or services; requirement for competitive process**

- (a) The Recipient shall follow its own written procurement policy and procedures when procuring goods or services.
- (b) In the absence of a written policy and procedures, procurement transactions for goods or services of \$5,000 or more shall be conducted in a manner providing full and open competition, consistent with the following:
  - (1) The contract opportunity shall be advertised or bids or proposals solicited.
  - (2) At least three bids or proposals shall be obtained.
  - (3) If three bids or proposals are not obtained, the following must be documented:
    - a. The manner of advertising, including the names of any publications in which the contract opportunity was advertised, if applicable.
    - b. The names and addresses of the firms or individuals solicited for bids or proposals.
    - c. The names and addresses of the firms or individuals that submitted a bid or proposal, and the bid or proposal amount for each.
  - (4) An invitation to bid or request for proposal shall not be drafted in a manner that limits the bidding directly or indirectly to one bidder. Any contract awarded in violation of this section may be disallowed.
- (c) All documents related to the procurement of goods or services shall be maintained pursuant to section 515, and provided to the Department or designee upon request.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

## **510 Contractors**

### **510.1 Use of contractors; recipient responsibilities**

- (a) Recipients may contract for services that cannot be provided by staff employed by the Recipient, with prior written approval from the Department. The prior approval requirement may be waived in accordance with section 501.
- (b) Contractor services must be for the purpose of achieving the grant award objectives.
- (c) Recipients are responsible for ensuring their contractors comply with grant program requirements.
- (d) Contracting out shall not affect the Recipient's overall responsibility for the management of the project, and the Recipient shall reserve sufficient rights and control to enable it to fulfill its responsibilities for the grant award.
- (e) Contracts shall be awarded in accordance with section 509.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

### **510.2 Written agreement required**

The Recipient shall have a written agreement with each contractor. At a minimum, the written agreement shall include:

- (a) Identification of the parties.
- (b) Beginning and ending dates of the contract.
- (c) Dollar amount of the contract.
- (d) A description of activities, services or deliverables to be performed with a time schedule and a budget.

- (e) Payment provisions.
- (f) Grant program requirements with which the contractor must comply.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

### 510.3 Contractor invoices

Contractor invoices shall include sufficient detail and information to allow a determination that the expenditures invoiced are necessary to the performance of the grant award, and reasonable and allowable. Invoices lacking sufficient detail may be disallowed.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

## 511 Timekeeping requirements

- (a) The Recipient shall comply with the following for employees, including salaried employees, whose salary and wage and fringe benefit costs are charged to a grant:
  - (1) Personnel activity reports shall be maintained to support salary and wage and fringe benefit expenditures charged to grant awards. Each personnel activity report shall include the following:
    - a. The number of hours worked on a daily basis for the grant award.
    - b. A description of the activities performed for the grant award in sufficient detail to allow a determination that the activity was related to the purpose for which the grant award was received.
    - c. A certification that the hours and activities recorded are accurate.
  - (2) The personnel activity report shall be signed by both the employee and the supervisor.
- (b) University of California and California State University employees shall comply with the written timekeeping policies and procedures of their respective institution.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

## 512 Travel

- (a) Travel shall be in accordance with the recipient's written travel policies, subject to the requirements of this section.
- (b) Travel costs shall be substantiated by receipts. Travel costs not substantiated by receipts may be disallowed.
- (c) Travel costs consist of the charges for commercial fares, private vehicle, overnight and day parking of private or rental vehicles, bridge and road tolls, and other reasonable charges essential for travel necessary for the performance of the grant award.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

### 512.1 Choosing a method of transportation

- (a) Recipients shall utilize the most economical method of transportation. In making a determination of which method is the most economical, the following shall be considered:
  - (1) Availability of public transportation.
  - (2) Total cost of each method of transportation considered.

- (3) Number of people traveling to the same place at the same time.
- (4) Travel time required by each method of transportation considered.
- (b) Unallowable modes of transportation include limousines, motorcycles, and motor-driven bicycles.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

#### 512.2 Reimbursement of transportation expenses

Reimbursement for transportation expenses is allowable, as follows:

- (a) Reimbursement for public transportation is allowable up to the actual expenses incurred for economy travel. Public transportation includes commercial air, rail, bus, taxi, and transportation network.
- (b) Commercial vehicle rental reimbursement is allowable up to the actual expenses incurred for rental of an economy class vehicle.
- (c) Mileage reimbursement for using a privately owned vehicle is allowable at the standard mileage rate established by the U.S. Internal Revenue Service and in effect at the time of travel. Travel logs shall be utilized to substantiate mileage costs.
- (d) Reimbursement for parking is allowable up to the actual expenses incurred, provided less expensive nearby parking was not available.
- (e) Reimbursement for other travel expenses, such as tolls, is allowable up to the actual expenses incurred.
- (f) Reimbursement of University of California and California State University employees for transportation expenses are allowable in accordance with their institution's written policies and procedures.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

#### 512.3 Reimbursement for meals, incidentals, lodging expenses

Reimbursement for meals, incidentals, and lodging expenses is allowable, as follows:

- (a) Reimbursement for travel within California shall not exceed the maximum allowable rates and amounts established by the California Department of Human Resources.
- (b) Reimbursement for travel outside of California shall not exceed the maximum allowable rates and amounts established by the U.S. General Services Administration for each of the states within the U.S.
- (c) Reimbursement for foreign travel shall not exceed the maximum allowable international travel rates and amounts established by the U.S. Department of State. Failure to obtain prior written approval from the Department pursuant to section 501 may result in disallowance of foreign travel costs.
- (d) Reimbursement of University of California and California State University employees for meals, incidentals, and lodging expenses are allowable in accordance with their institution's written policies and procedures.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

### **513 Rights to intellectual property; Department use**

Unless otherwise specified in the grant agreement, this section shall apply to intellectual property resulting from a grant award.

#### 513.1 Rights to intellectual property

The Recipient shall retain all rights to intellectual property developed as a result of a grant award, subject to the following:

- (a) The Recipient shall disclose to the Department intellectual property developed as a result of a grant award from the Department, to the extent that such disclosure does not compromise the protection of the rights to the intellectual property.
- (b) The Recipient shall disseminate data, knowledge, research results, and project results as quickly as possible to interested persons, subject to scientific review and protection of the rights to the intellectual property.
- (c) Intellectual property requirements for grants awarded to the University of California or the California State University must be consistent with Education Code section 67327 to the extent the model terms regarding intellectual property have been negotiated and approved.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

#### 513.2 Department use

The Recipient shall grant the Department use of intellectual property developed as a result of a grant award as follows:

- (a) The Recipient shall notify the Department of trademark or patent applications filed or approved for any invention resulting from a grant award from the Department.
- (b) The Recipient shall be responsible for the costs associated with trademark or patent applications; such costs are not allowable charges to the grant award.
- (c) The Recipient shall formally grant the Department a limited use license to any invention resulting from a grant award from the Department.
- (d) The Recipient shall formally grant the Department a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use the copyrighted material resulting from a grant award from the Department, including in cooperation with other public agencies.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

### **514 Property management and disposition**

#### 514.1 Property records

Recipients shall maintain property records for equipment. At a minimum, property records shall include:

- (a) A description of the equipment.
- (b) A serial number or other identification number.
- (c) Identification of the grant program and grant agreement number under which the equipment is acquired.
- (d) The acquisition date.

- (e) The acquisition cost of the equipment, including the cost of any necessary accessories and all incidental costs incurred to put the asset into place and ready for its intended use.
- (f) The location, use and condition of the equipment.
- (g) Any ultimate disposition information including date of disposal and sale price of the equipment.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

#### 514.2 Disposition of equipment

- (a) If equipment purchased during the term of the grant has a fair market value of less than \$5,000 at the close of a grant agreement, it is no longer considered equipment and is not subject to the requirements governing equipment.
- (b) If the fair market value is \$5,000 or more at the close of the grant agreement, the use, management, and disposition of the equipment is subject to approval by the Department. These requirements apply until the fair market value of the equipment is \$5,000 or less.
- (c) A request for disposition of equipment shall be submitted to the Department for approval. The request shall include:
  - (1) The current fair market value of the equipment.
  - (2) A description of the proposed disposition.
  - (3) The signature of an authorized representative.
- (d) Requests shall be approved or denied, or an alternate disposition offered, by the Department no later than 30 business days from the date the request for disposition is received.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

#### **515 Records retention; access**

- (a) Recipients shall maintain all records relating to the grant award. Such records include:
  - (1) Personnel activity reports and associated payroll records.
  - (2) Travel reimbursement claims, including receipts for lodging, per diem and transportation.
  - (3) Documentation supporting calculation or methodology for determining indirect costs.
  - (4) Other records related to the grant agreement. Examples of other records include policies and procedures, and documentation of matching funds and in-kind contributions.
- (b) Recipients shall retain all records relating to the grant award for a period of three years from the date of the close out notification pursuant to section 520.
- (c) Recipients shall allow the Department or designee access to records upon request, including during the record retention period.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

#### **516 Remedies for noncompliance**

The Department may take one or more of the following remedies for failure by the Recipient to comply with grant program requirements or grant agreement terms and conditions.

- (a) Disallowance of costs for all or part of the cost of the activity or action not in compliance, or for the invoicing or reporting period not in compliance.
- (b) Withdrawal of authorized personnel approval.



- (c) Withholding of payments.
- (d) Recovering of grant funds paid to the recipient.
- (e) Denial of advance payment requests.
- (f) Imposition of additional conditions.
- (g) Termination of the grant agreement.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

### **517 Additional conditions**

- (a) The Department may impose additional conditions for the following reasons:
  - (1) Late invoices or progress reports.
  - (2) Audit or agreed-upon-procedure findings.
  - (3) History of unsatisfactory performance.
  - (4) Noncompliance with terms and conditions of current or previous awards.
  - (5) Noncompliance with grant program requirements.
  - (6) A determination that imposing additional conditions is necessary to monitor the progress of the grant award, ensure the recipient manages the grant award in compliance with grant program requirements or grant agreement terms and conditions, or ensure the recipient expends the grant funds in an effective, efficient, and allowable manner.
- (b) Upon imposition of additional conditions, Recipients will be notified in writing of the following:
  - (1) The additional conditions imposed.
  - (2) The reasons for imposing the additional conditions.
  - (3) The date the additional conditions are effective.
  - (4) The actions required, if any, to remove the additional conditions.
  - (5) The timeframe in which the required actions must be completed.
  - (6) The consequences of continued noncompliance.
  - (7) That this action may be taken into consideration during evaluation of any grant proposal submitted by the Recipient in the future.
  - (8) That this action may be considered a basis for imposing additional conditions on a grant awarded in the future.
  - (9) The method for appealing the additional conditions imposed.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

### **518 Termination**

- (a) The Department may terminate a grant agreement for noncompliance with grant program requirements or grant agreement terms and conditions.
- (b) Upon termination of a grant agreement, the Recipient will be notified in writing of the following:
  - (1) The reasons for termination.
  - (2) The date the termination is effective.
  - (3) That this action may be taken into consideration during evaluation of any grant proposal submitted by the Recipient in the future.
  - (4) That this action may be considered a basis for imposing additional conditions on a grant awarded in the future.
  - (5) The method for appealing the termination.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

### **519 Closeout**

- (a) The Department will conduct closeout review activities prior to closing out the grant. Closeout review activities include the following:
  - (1) Review of the final report to ensure it is sufficient and complete.
  - (2) Review of the final invoice to ensure the grant award is not overexpended and is in compliance with applicable final invoice requirements.
  - (3) Verification that any performance issues are resolved.
  - (4) Verification that any audit or agreed-up-procedure findings are resolved.
- (b) A closeout notification will be issued and the final invoice payment will be processed when closeout review is completed.
- (c) The closeout notification will include:
  - (1) Name of the grant program.
  - (2) Grant agreement number.
  - (3) Balance of unexpended grant funds after payment of final invoice.
  - (4) Acknowledgment that the grant award is closed.
  - (5) Post-grant property management and disposition requirements.
  - (6) Post-grant record retention requirements.
  - (7) Additional post-grant requirements, if applicable.
- (d) Closeout activities will be completed no more than 30 business days from the date a complete final report and complete final invoice are received, or the date of final resolution of any performance or financial compliance issues, whichever is later.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

### **600 Allowable and unallowable costs**

#### **600.1 Allowability of costs; reasonable costs, allocable costs**

- (a) Costs must meet the following general criteria to be allowable:
  - (1) Must be necessary and reasonable for the performance of the grant award, and allocable to the grant award.
  - (2) Must be accorded consistent treatment. A cost may not be assigned as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated as an indirect cost.
  - (3) Must be adequately documented.
  - (4) Must be allowable under, or otherwise comply with, grant program requirements and grant award terms and conditions.
  - (5) Must be in compliance with applicable state laws and requirements.
- (b) A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. In determining the reasonableness of a given cost, consideration will be given to:
  - (1) Whether the cost is generally recognized as ordinary and necessary for the proper and efficient performance of the grant award.
  - (2) The requirements of the grant program and the terms and conditions of the grant award.
  - (3) Market prices for comparable goods or services for the geographic area.

- (4) Whether the recipient deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the award's cost.
- (c) A cost is allocable to the grant award if the cost is incurred specifically for the award.
- (1) If the cost benefits both award and non-award activities, the proportion that may be approximated using reasonable and properly documented methods may be charged to the grant award in accordance with section 501.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

#### 600.2 Guidance

- (a) The Department will maintain a list of allowable and unallowable items of cost, available at [www.cdfa.ca.gov/oga](http://www.cdfa.ca.gov/oga), as guidance for applicants and recipients.
- (b) Failure to mention a particular item of cost in the guidance is not intended to imply the cost is allowable or unallowable. Final determination of allowability will be made by the Department and will take into consideration section 600.1.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code

#### 700 Appeals

- (a) Actions that may be appealed include:
  - (1) Disqualification of an application.
  - (2) Imposition of additional conditions.
  - (3) Suspension or termination of a grant agreement.
  - (4) Delay of payment.
- (b) Appeals must be in writing, postmarked within 10 calendar days of the date of the notification of the action, and mailed to the California Department of Food and Agriculture, Office of Hearings and Appeals, 1220 N Street, Suite 400, Sacramento, CA 95814, or emailed to [CDFA.LegalOffice@cdfa.ca.gov](mailto:CDFA.LegalOffice@cdfa.ca.gov).
- (c) The appeal shall include:
  - (1) A copy of the notification or the name of the applicant or recipient organization.
  - (2) The proposal or project identification number.
  - (3) The title of the proposal or project.
  - (4) The reasons the action should not be imposed, including any documentation to support the appeal.
  - (5) The signature of the authorized representative.
- (d) Appeals not post marked timely will be denied.
- (e) The action or actions specified in the notification shall remain in effect while the appeal is under review.
- (f) A decision on the appeal will be issued no later than 10 calendar days from the date the appeal is received, unless notice is provided in writing to the Recipient that the decision will be issued at a later date not to exceed 30 days from the date the appeal is received.

NOTE: Authority: Sections 407 and 485, Food and Agricultural Code. Reference: Sections 201, 401, 401.5, 404, 485, Food and Agricultural Code; section 18901.2, Revenue and Taxation Code