

## § 3406.28

Governmentwide Requirements for Drug-Free Workplace (Grants), implementing Executive Order 12549 on debarment and suspension and the Drug-Free Workplace Act of 1988 (41 U.S.C. 701).

7 CFR Part 3018—Restrictions on Lobbying, prohibiting the use of appropriated funds to influence Congress or a Federal agency in connection with the making of any Federal grant and other Federal contracting and financial transactions.

7 CFR Part 3019—USDA implementation of OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.

7 CFR Part 3051—Audits of Institutions of Higher Education and other Nonprofit Institutions.

29 U.S.C. 794, section 504—Rehabilitation Act of 1973, and 7 CFR Part 15b (USDA implementation of statute), prohibiting discrimination based upon physical or mental handicap in Federally assisted programs.

35 U.S.C. 200 *et seq.*—Bayh-Dole Act, controlling allocation of rights to inventions made by employees of small business firms and domestic nonprofit organizations, including universities, in Federally assisted programs (implementing regulations are contained in 37 CFR part 401).

### § 3406.28 Confidential aspects of proposals and awards.

When a proposal results in a grant, it becomes a part of the record of the Agency's transactions, available to the public upon specific request. Information that the Secretary determines to be of a privileged nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to have considered as privileged should be clearly marked as such and sent in a separate statement, two copies of which should accompany the proposal. The original copy of a proposal that does not result in a grant will be retained by the Agency for a period of one year. Other copies will be destroyed. Such a proposal will be released only with the consent of the applicant or to the extent required by law. A proposal may be withdrawn at any time prior to the final action thereon.

### § 3406.29 Evaluation of program.

Grantees should be aware that NIFA may, as a part of its own program evaluation activities, carry out in-depth evaluations of assisted activities. Thus,

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grantees should be prepared to cooperate with NIFA personnel, or persons retained by NIFA, evaluating the institutional context and the impact of any supported project. Grantees may be asked to provide general information on any students and faculty supported, in whole or in part, by a grant awarded under this program; information that may be requested includes, but is not limited to, standardized academic achievement test scores, grade point average, academic standing, career patterns, age, race/ethnicity, gender, citizenship, and disability.

## PART 3407—IMPLEMENTATION OF NATIONAL ENVIRONMENTAL POLICY ACT

### Sec.

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**AUTHORITY:** National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.*; E.O. 11514, 34 FR 4247, as amended by E.O. 11991, 42 FR 26927; E.O. 12144, 44 FR 11957; 5 U.S.C. 301; 40 CFR parts 1500-1508; and 7 CFR part 1b.

**SOURCE:** 56 FR 49245, Sept. 27, 1991, unless otherwise noted.

**EDITORIAL NOTE:** Nomenclature changes to part 3407 appear at 76 FR 4810, Jan. 27, 2011.

### § 3407.1 Background and purpose.

(a) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*) establishes national policies and goals for the protection of the human environment. Section 102(2) of NEPA directs all Federal agencies to give appropriate consideration to the environmental consequences of proposed actions in their decisionmaking and to prepare detailed environmental statements on major Federal actions

significantly affecting the quality of the human environment.

(b) The purpose of this regulation is to supplement the regulations for implementation of NEPA established by the Council on Environmental Quality (CEQ) and codified at 40 CFR parts 1500–1508, as adopted by USDA in 7 CFR part 1b.

(c) Unless otherwise noted, parenthetical citations throughout this part refer to the CEQ regulations.

#### § 3407.2 Definitions.

(a) *Authorized Departmental Officer* means the NIFA official, acting within the scope of delegated authority, who is responsible for awarding and administering project grants on behalf of USDA and for carrying out NEPA responsibilities as outlined in §3407.4(d) of this part. The Authorized Departmental Officer's responsibilities do not include the review, approval, management, or similar activity relating to programs or projects funded by NIFA on the basis of statutory formula and also do not include parallel responsibilities relating to the management or administration of cooperative agreements awarded by NIFA.

(b) Other terms used in this regulation have the same meaning as they have in the CEQ regulations.

#### § 3407.3 Policy.

(a) It is NIFA policy to comply with the provisions of NEPA and related laws and policies and with the implementing regulations cited in §3407.1(b) of this part.

(b) Environmental documents should be concise, written in plain language, and address the issues pertinent to the decision being made.

(c) Environmental documents may be substituted for or combined with other reports which serve to facilitate decisionmaking (40 CFR 1506.4).

(d) NIFA personnel will cooperate with other Federal and State agencies or units thereof, as well as with grantees, contractors, and other cooperating individuals or entities undertaking activities funded or recommended for funding by NIFA to assure that NEPA considerations are addressed early in the planning process to avoid delays and conflicts (40 CFR 1501.2).

(e) NIFA reserves the right to require project participants outside of NIFA to furnish environmental data or documentation to assist NIFA in carrying out its responsibilities under NEPA. When an applicant, grantee, or other cooperating individual or organization is required to submit environmental data to NIFA, including preparation of an environmental assessment (EA), or when a contractor hired by a grantee or other cooperating party prepares environmental data or documentation, NIFA shall provide advance instructions to the applicant, grantee, or other cooperator relating to the preparation and submission of the required information. All information supplied by external project participants shall be subject to verification by NIFA (40 CFR 1506.5).

(f) When possible, costs of analyses and development of required environmental documents shall be planned for during the budgetary process relating to the plan or program. Where the nature of particular program agreements (e.g., grants, cooperative agreements, formula projects) are determined by NIFA to require environmental documentation, the cost of preparing such documentation and of reasonable mitigation efforts shall be considered allowable costs and may be charged to the project as a portion of the Federal or the non-Federal share of project costs. However, NIFA funds above those authorized for the program award will not be made available to recipients to cover such costs.

(g) Final environmental documents, decision notices, and records of decision shall be available to the public for review. There shall be an early and open process for determining the scope of issues to be addressed during environmental analysis (40 CFR 1501.7).

(h) The concept of tiering to eliminate repetitive discussions applicable to EISs (40 CFR part 1502) is applicable to EAs also.

(i) NIFA officials may adopt an existing Federal EA or EIS when a proposed action is substantially the same as the action for which an existing EA or EIS was prepared (40 CFR 1506.3), provided that the EA or EIS or portion thereof meets the standards for an adequate EA or EIS under these regulations.