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DEPARTMENT OF AGRICULTURE

National Institute of Food and Agriculture

7 CFR Part 3430

RIN 0524-AA69

Competitive and Noncompetitive Non-formula Federal Assistance Programs - General Award Administrative Provisions and Specific Administrative Provisions

AGENCY: National Institute of Food and Agriculture, USDA.

ACTION: Final rule with request for comments.

SUMMARY: The National Institute of Food and Agriculture (NIFA) is publishing as a final rule, a set of general and specific administrative requirements applicable to competitive and non-competitive non-formula programs. The purpose of this final rule is to implement sections of the Agriculture Act of 2014 (Pub. L.113-79 or the 2014 Farm Bill), making it necessary to add a new section for centers of excellence by modifying Subparts A, B, C and D of the general administrative provisions. Although this final rule becomes effective on the date of publication, NIFA is requesting comments for a 30-day period as identified below.

DATES: This final rule becomes effective on [INSERT DATE OF PUBLICATION]. NIFA is accepting comments for 30 days until [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FR].

ADDRESSES: You may submit comments, identified by centers of excellence, by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>.

Follow the instructions for submitting comments.

E-mail: Centers@nifa.usda.gov. Include centers of excellence in the subject line of the message.

Instructions: All comments received must include the agency name and reference to center of excellence. All comments received will be posted to <http://www.regulations.gov>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Erin Daly, Senior Policy Advisor, Phone: 202-401-3319

SUPPLEMENTARY INFORMATION:

I. Background and Summary

Authority

This rulemaking is authorized by section 1470 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (NARETPA), as amended, 7 U.S.C. 3316.

Organization of 7 CFR Part 3430

A primary function of NIFA is the fair, effective, and efficient administration of Federal assistance programs implementing agricultural research, education, and

extension programs. The awards made under the above authority are subject to the NIFA assistance regulations at 7 CFR part 3430, Competitive and Noncompetitive Non-formula Federal Assistance Programs – General Award Administrative Provisions. NIFA's development and publication of this regulation for its non-formula Federal assistance programs serves to enhance its accountability and to standardize procedures across the Federal assistance programs it administers while providing transparency to the public. NIFA published 7 CFR part 3430 with subparts A through F as a final rule on September 4, 2009 [74 FR 45736-45752]. These regulations apply to all Federal assistance programs administered by NIFA except for the formula grant programs identified in 7 CFR 3430.1(f), the Small Business Innovation Research programs with implementing regulations at 7 CFR part 3403, and the Veterinary Medicine Loan Repayment Program (VMLRP), with implementing regulations at 7 CFR part 3431.

NIFA organized the regulation as follows: subparts A through E provide administrative provisions for all competitive and noncompetitive non-formula Federal assistance programs. Subparts F and thereafter apply to specific NIFA programs.

NIFA is, to the extent practical, using the following subpart template for each program authority: (1) applicability of regulations, (2) purpose, (3) definitions (those in addition to or different from § 3430.2), (4) eligibility, (5) project types and priorities, (6) funding restrictions, (7) matching requirements, and (8) duration of grant. Subparts F and thereafter contain the above seven components in this order. Additional sections may be added for a specific program if there are additional requirements or a need for additional rules for the program (e.g., additional reporting requirements).

Through this rulemaking, NIFA is making additions to Subparts A - General Information, B - Pre-award: Solicitation and Application, C - Pre award: Application Review and Evaluation and D - Award of the administrative provisions in order to add a new section for the centers of excellence identified in the 2014 Farm Bill.

II. Administrative Requirements for the Rulemaking

While the Administrative Procedure Act (APA), 5 U.S.C. 553(a)(2), specifically exempts rules that involve public property, loans, grants, benefits, or contracts from notice-and-comment requirements, NIFA is issuing this rule as final with request for comments. Accordingly, NIFA is allowing 30 days for the submission of comments.

If upon consideration of the comments received in response to this notice NIFA decides to amend the final rule, NIFA will issue a subsequent final rule that includes an explanation of any changes made in response to the comments.

Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been determined to be not significant for purposes of Executive Order 12866.

Regulatory Flexibility Act of 1980

This final rule has been reviewed in accordance with the Regulatory Flexibility Act of 1980, as amended by the Small

Business Regulatory Enforcement Fairness Act of 1996, (5 USC 601-612). The Director of the NIFA certifies that this final regulation will not have a significant economic impact on a substantial number of small entities. This final regulation will affect institutions of higher education receiving Federal funds under this program. The U.S. Small Business Administration Size Standards define institutions as "small entities" if they are for-profit or nonprofit institutions with total annual revenue below \$5,000,000 or if they are institutions controlled by governmental entities with populations below 50,000. The rule does not involve regulatory and informational requirements regarding businesses, organizations, and governmental jurisdictions subject to regulation.

Paperwork Reduction Act (PRA)

The Department certifies that this final rule has been assessed in accordance with the requirements of the Paperwork Reduction Act (PRA), 44 USC 3501 et seq. The Department concludes that this final rule does not impose any new information requirements or increase the burden hours. In addition to the SF-424 form families (i.e., Research and Related and Mandatory) and the SF-425 Federal Financial Report (FFR) No. 0348-0061, NIFA has three currently approved OMB information collections associated

with this rulemaking: OMB Information Collection No. 0524-0042, NIFA REEport; No. 0524-0041, NIFA Application Review Process; and No. 0524-0026, Organizational Information.

Catalog of Federal Domestic Assistance

This final regulation applies to the following Federal financial assistance programs administered by NIFA including CFDA No. 10.309, Specialty Crop Research Initiative; CFDA No. 10.307, Organic Agriculture Research and Extension Initiative; CFDA No. 10.303, Integrated Research, Education, and Extension Competitive Grants Program; CFDA No. 10.310, Agriculture and Food Research Initiative (AFRI); CFDA No. 10.311, Beginning Farmer and Rancher Development Program; CFDA No. 10.326, Capacity Building for Non-Land Grant Colleges of Agriculture; and CFDA No. 10.320, Sun Grant Program.

Unfunded Mandates Reform Act of 1995 and Executive Order 13132

The Department has reviewed this final rule in accordance with the requirements of Executive Order No. 13132 and the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 et seq., and has found no potential or substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of

government. As there is no Federal mandate contained herein that could result in increased expenditures by State, local, or tribal governments, or by the private sector, the Department has not prepared a budgetary impact statement.

Clarity of This Regulation

Executive Order 12866 and the President's Memorandum of June 1, 1998, require each agency to write all rules in plain language. The Department invites comments on how to make this final rule easier to understand.

List of Subjects in 7 CFR Part 3430

Administrative practice and procedure, Agricultural Research, Education, Extension; Federal assistance.

Accordingly, the Department of Agriculture, National Institute of Food and Agriculture, adopts the interim rule amending 7 CFR part 3430 which was published at 75 FR 54759 on September 9, 2010, as final with the following changes:

PART 3430 - COMPETITIVE AND NONCOMPETITIVE NON-FORMULA FEDERAL ASSISTANCE PROGRAMS - GENERAL AWARD ADMINISTRATIVE PROVISIONS

1. The authority citation for part 3430 continues to read as follows:

Authority: 7 U.S.C. 3316; Pub. L. 106-107 (31 U.S.C. 6101 note).

Subpart A - General

2. Amend § 3430.2 by adding a definition for "Center of Excellence" in alphabetical order to read as follows:

§ 3430.2 Definitions.

* * * * *

Center of Excellence in food and agricultural research, extension, and education is a grantee whose application was not only found to be highly meritorious by a peer panel, but met additional criteria (see § 3430.17(c)) to receive the designation. This designation is specific to a grant application.

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Subpart B-Pre-award: Solicitation and Application

3. Amend §3430.12 by adding paragraph (d) to read as follows:

§ 3430.12 Requests for application.

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(d)If applicants choose to address center of excellence criteria, they must do so in their project narrative, subject to any page limitations on that section of the application.

4. Amend §3430.16 by adding paragraph (e) to read as follows:

§ 3430.16 Eligibility requirements.

* * * * *

(e) Center of Excellence. (1) To be considered as a center of excellence, a center of excellence must be one of the following entities that provides financial or in-kind support to the center being proposed:

- (i) State agricultural experiment stations;
- (ii) Colleges and universities;
- (iii) University research foundations;
- (iv) Other research institutions and organizations;
- (v) Federal agencies;
- (vi) National laboratories;
- (vii) Private organizations, foundations, or corporations;
- (viii) Individuals; or
- (ix) A group consisting of two or more of the entities described in paragraphs (e)(1)(i) through (viii) of this section.

(2) Only standard grant and coordinated agricultural project (CAP) grant applicants may be considered for center of excellence designation.

5. Amend §3430.17 by designating the existing text as paragraph (a) and adding paragraph (b) to read as follows:

§ 3430.17 Content of an application.

* * * * *

(b) Center of Excellence: In addition to meeting the other requirements detailed in the request for application (RFA), eligible applicants who wish to be considered as a center of excellence must provide a brief justification statement at the end of their project narrative and within the page limits provided for the project narrative, describing how they meet the standards of a center of excellence, based on the following criteria:

(1) The ability of the center of excellence to ensure coordination and cost effectiveness by reducing unnecessarily duplicative efforts regarding research, teaching, and extension in the implementation of the proposed research and/or extension activity outlined in this application;

(2) In addition to any applicable matching requirements, the ability of the center of excellence to leverage available resources by using public-private partnerships among agricultural industry groups, institutions of higher education, and the Federal Government in the implementation of the proposed research and/or extension activity outlined

in this application. Resources leveraged should be commensurate with the size of the award;

(3) The planned scope and capability of the center of excellence to implement teaching initiatives to increase awareness and effectively disseminate solutions to target audiences through extension activities in the implementation of the proposed research and/or extension activity outlined in this application; and

(4) The ability or capacity of the center of excellence to increase the economic returns to rural communities by identifying, attracting, and directing funds to high-priority agricultural issues in support of and as a result of the implementation of the proposed research and/or extension activity outlined in this application.

(5) Additionally, where practicable (not required), center of excellence applicants should describe proposed efforts to improve teaching capacity and infrastructure at colleges and universities (including land-grant colleges and universities, cooperating forestry schools, certified Non-Land Grant Colleges of Agriculture (NLGCA) (list of certified NLGCA is available at http://www.nifa.usda.gov/funding/pdfs/nlgca_colleges.pdf), and schools of veterinary medicine).

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Subpart C—Pre-award: Application Review and Evaluation

6. Amend §3430.34 by adding paragraph (c) to read as follows:

§ 3430.34 Evaluation criteria.

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(c) Center of Excellence status. All eligible applicants will be competitively peer reviewed (as described in Part V, A. and B. of the RFA), and ranked in accordance with the evaluation criteria. Those that rank highly meritorious and requested to be considered as a center of excellence will be further evaluated by the peer panel to determine whether they have met the criteria to be a center of excellence. In instances where they are found to be equally meritorious with the application of a non-center of excellence, based on peer review, selection for funding will be weighed in favor of applicants meeting the center of excellence criteria. NIFA will effectively use the center of excellence prioritization as a "tie breaker". Applicants that rank highly meritorious but who did not request consideration as a center of excellence or who are not deemed to have met the center of excellence standards may still receive funding.

Subpart D—Pre-award: Award

8. Amend §3430.41 by adding paragraph (c) to read as

follows:

§ 3430.41 Administration.

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(c) Center of Excellence. Applicant's Notice of Award will reflect that, for that particular grant program, the applicant meets all of the requirements of a center of excellence. Entities recognized as a center of excellence will maintain that distinction for the duration of their award or as identified in the terms and conditions of that award.

Dated: April 27, 2017.

Sonny Ramaswamy
NIFA Director
National Institute of Food and Agriculture

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