

## REQUEST FOR APPLICATIONS

**Funding Opportunity Title:** Fertilizer Production Expansion Program

**Funding Opportunity Number:** RD-RBS-22-01-FPEP

**Assistance Listing Number:** 10.383

**Announcement Type:** Initial

**Application Windows:** Applicants will have two opportunities to submit their applications via [www.grants.gov](http://www.grants.gov).

- **45 days after the date of posting** for applicants requesting financial assistance for eligible projects under the program. Priority will be given to projects that increase the availability of fertilizer (nitrogen, phosphate, or potash) and nutrient alternatives to agricultural producers for use in Crop Years 2023 or 2024; and
- **90 days after the date of posting** for all applicants requesting financial assistance for eligible projects under the program, including those with a longer timeline for making additional capacity available.

Eligible applicants that are not selected for an award in the competition following the **45 days after posting** application window will automatically be entered into the competition following the **90 days after posting** application window. There is no difference in the availability of funds or prioritization of application selection between the **45 days after posting** application window and the **90 days after posting** application window. The primary difference is that applications in the **45 days after posting** application window must demonstrate project results on the ground (i.e., product availability for agricultural commodity use) in crop years 2023 and 2024; the **90 days after posting** application window could include but does not require such project results.

**Summary:** The United States Department of Agriculture (USDA), Rural Development (RD) Rural Business-Cooperative Service (RBCS or Agency) requests applications for the Fertilizer Production Expansion Program (FPEP). In response to well recognized challenges and concerns with market concentration and the need to provide United States (U.S.) farmers more domestic access to fertilizer and fertilizer alternatives for producing agricultural commodities, USDA through FPEP as authorized by the Commodity Credit Corporation (CCC), is providing at least

\$500 million in grants to expand or bring into operation new, independent domestic production capacity, pursuant to [15 U.S.C. 714c\(b\)](#), to “Make available materials and facilities required in connection with the production and marketing of agricultural commodities (other than tobacco).” Competitive, cost-share grants of up to \$100 million are available to eligible entities to expand capacity, improve competition, and increase supply chain resilience within the agricultural fertilizer and nutrient alternative sector, in connection with the production of agricultural commodities. Under FPEP the manufacturing and processing of fertilizer and nutrient alternatives must be: independent and outside the dominant fertilizer suppliers; made in America; innovative; sustainable; and farmer-focused. Moreover, USDA is particularly interested in supporting projects that are in the later stages of development, technically feasible, financially viable, and that have already identified other sources of funding.

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## 1.0 PROGRAM OVERVIEW

### 1.1 Background

On July 9, 2021, Executive Order (E.O.) 14036, "[Promoting Competition in the American Economy](#)" was issued, which created a White House Competition Council and directed federal agencies to enhance fairness and competition. In response, USDA announced on March 11, 2022, that it would support additional fertilizer production to help American farmers address rising costs and spur competition as part of the whole-of-government effort to enhance fair and competitive markets along the same lines as the independent food processing investments being made as part of the [Food System Transformation Effort](#). In addition, on March 17, 2022, the USDA Agricultural Marketing Service announced a Request for Comments (RFC) at 87 FR 15191 for the public to comment on the impacts of concentration and market power in fertilizer, seed, and other agricultural input markets. USDA's goal with these actions was to solicit information on competition and market access for farmers and ranchers, facilitate the development of new and growing market competitors to the current dominant firms, and learn more about the forces faced by farmers in these markets.

Key areas of focus in the RFC included challenges and concerns with market concentration and power and providing U.S. farmers more domestic access to fertilizer and fertilizer alternatives for producing agricultural commodities; long and short-term trends in fertilizer prices; effect of mergers, including the ability of new fertilizer firms to become established; the competitive impacts of bundling a product (such as fertilizer) with another product; transportation and delivery issues; U.S. reliance on foreign supply; and sustainability, climate, and other environmental concerns and risks relating to fertilizer markets and the relationships to competition. Comments and recommendations from the RFC informed the guiding principles of this Request for Applications.

### 1.2 Legislative Authority

FPEP is authorized by the CCC Charter Act to assist agricultural producers through grants, purchases, payments, and other operations, and makes available materials and facilities required in the production and marketing of agricultural commodities. Through FPEP, USDA is supporting new and expanded supplies of fertilizer and alternatives that play the same role as fertilizer to U.S. farmers as a key input necessary for production of agricultural commodities. Project proposals need to demonstrate that the federal share of any investment will provide this dedicated supply for U.S. farmers. FPEP grants are administered by USDA, Rural Development, Rural Business-Cooperative Service (RBCS).

### 1.3 Program Purpose, Description, Goals, and Intended Outcomes

USDA will use funds from the CCC set-aside from [September of 2021](#) to develop a grant program to expand or bring into operation new, independent domestic production capacity, pursuant to [15 U.S.C. 714c\(b\)](#), to “Make available materials and facilities required in connection with the production and marketing of agricultural commodities (other than tobacco).”

The purpose of FPEP is to expand capacity, improve competition, and increase supply chain resilience within the agricultural fertilizer and nutrient management sector, in connection with the production of agricultural commodities. To meet its purpose, FPEP will support the production of agricultural commodities through the manufacturing and processing of fertilizer and nutrient alternatives that are:

- **Independent and outside the dominant fertilizer suppliers.** The goal is to increase domestic competition. Consequently, entities that hold a Market Share (in either production or distribution that is greater than or equal to the entity that holds the fourth largest share of the market for nitrogen, phosphate, or potash, or any combination therefore, will not be considered for funding;
- **Made in America** - Produced within Tribal Lands or in the U.S. and its territories by entities operating within Tribal Lands or in the U.S. and its territories, creating good-paying jobs at home, and reducing the reliance on potentially unstable or inconsistent foreign supplies;
- **Innovative** – To improve upon fertilizer production methods and efficient-use technologies to jump start the next generation of fertilizers and nutrient alternatives;
- **Sustainable** - Reduces the greenhouse gas impact of transportation, production, and use through renewable energy sources, feedstocks, formulations, and incentivizing greater precision in fertilizer use; and
- **Farmer-focused** - Like other CCC investments, a driving factor will be making sure the additional domestic capacity supported by USDA is dedicated to U.S. agricultural commodity production.

Successfully meeting these challenges will require coordination and partnerships with stakeholders throughout the supply chain such as this planned investment in innovative, domestic fertilizer production. As part of a whole-of-government effort to combat the climate crisis and conserve and protect our nation's lands, biodiversity, and natural resources including our soil, air,

and water, USDA solicits applications from qualified entities ([Section 2.4](#)) for projects that will contribute significantly to the purpose of FPEP.

Examples of successful applications may include, but are not limited to, projects that:

1. Increase the domestic availability of fertilizer (nitrogen, phosphate, potash) and nutrient alternatives to agricultural producers for use in crop years 2023, 2024, and thereafter;
2. Provide agricultural producers with more domestic options for fertilizer and nutrient alternatives; or
3. Reduce the impacts of climate change through the manufacturing and processing of or the use of sustainable, innovative, increased, and efficient fertilizer and nutrient alternatives.

USDA is particularly interested in supporting projects that are in the later stages of development, technically feasible, financially viable, and have already identified other sources of funding (e.g., federal, state, Tribal, local, or private funding), but where the USDA funding allows a faster ramp-up of production and capacity than would otherwise be possible.

Consequently, FPEP provides two application submission windows and two subsequent competitions:

- **45 days after the date of posting** for applicants requesting financial assistance for eligible projects under the program. Priority will be given to projects that increase the availability of fertilizer (nitrogen, phosphate, or potash) and nutrient alternatives to agricultural producers for use in crop years 2023 or 2024; and
- **90 days after the date of posting** for all applicants requesting financial assistance for eligible projects under the program, including those with a longer timeline for making additional capacity available.

Eligible applicants that are not selected for an award in the competition following the **45 days after posting** application window will automatically be entered into the competition following the **90 days after posting** application window. There is no difference in the availability of funds or prioritization of application selection between the **45 days after posting** application window and the **90 days after posting** application window; the primary difference is that applications in the **45 days after posting** application window must demonstrate project results on the ground (i.e., product availability for agricultural commodity use) in crop years 2023 and 2024; the **90 days after posting** application window could include but does not require such project results.

## 1.4 National Environmental Policy Act

All activities funded under this Request for Applications (RFA) must comply with the National Environmental Policy Act (NEPA) and related applicable Agency regulations at [7 CFR part 1970](#) (Environmental Policies and Procedures) and related instructions, Section 106 of the National Historic Preservation Act, other applicable laws and regulations, and any applicable state, local, or Tribal laws. A review for NEPA compliance is required prior to the award of grant funds. RBCS may request additional information from the applicant for the purposes of completing the environmental review.

## 2.0 AWARD INFORMATION

### 2.1 Type of Federal Assistance

RBCS will use a Financial Assistance Agreement (Form RD 4280-2) to provide a federal award to successful applicants.

### 2.2 Available Funding

Up to \$500 million is available to fund projects under this RFA.

### 2.3 Award Size and Number of Awards

**Award Size:** The minimum award amount for an approved application is \$1 million. The maximum award amount for an approved application is \$100 million.

**Number of Awards:** USDA welcomes proposals for a range of funding sizes from \$1 million to \$100 million. Therefore, the number of awards under this announcement is difficult to predict. In the very unlikely event that every successful candidate receives a maximum award of \$100 million, 5 awards will be made. The Agency expects to make approximately 30-50 awards, depending on the applications received.

### 2.4 Federal Award Period of Performance

Projects may be between one and five years in duration. The maximum period of performance for this grant is 60 months with up to 24 months of no-cost extensions considered on a case-by-case basis. Awards are expected to be made on a rolling basis and start dates for specific projects will vary based on environmental and other reviews. The earliest anticipated start date is Winter 2022 for successful candidates submitting in the **45 days after posting** application



window, with December 28, 2022, as the (earliest) anticipated award date. The earliest anticipated start date is Spring 2023 for successful candidates submitting in the **90 days after posting** application window.

The period of performance should be based upon the complexity of the project. When developing the workplan and budget, whether it is for the purchase of equipment or real estate improvements, ensure that adequate time is provided to complete the project. This timeframe will be used as an indicator for the start and end dates and the availability of funding for projects.

*Note:* Projects submitting in the **45-days after posting** application window must demonstrate project results on the ground (i.e., product availability for agricultural commodity use) in crop years 2023 and 2024.

## 2.5 Eligible Applicants and Activities

For the purpose of this RFA, examples of fertilizer and nutrient alternatives may include but are not limited to chemical fertilizers, biosolids, and seed coatings to enhance nutrient absorption.

### 2.5.1 Eligible Applicants

Entities are eligible regardless of legal structure and may include, but are not limited to, Tribes, Tribal entities, for-profit entities, corporations, non-profit entities, producer-owned cooperatives and corporations, certified benefit corporations, and state or local government entities. Private entities must be independently owned and operated.

Eligible applicants must:

- Operate within Tribal Lands or in the U.S. and its territories and propose projects that are physically located within Tribal Lands or in the U.S. and its territories;
- Manufacture or process or plan to manufacture or process in accordance with all federal, state, Tribal and local regulations governing fertilizer and nutrient manufacturing, processing, storage, distribution, and waste management; and
- Be registered in the System for Award Management (SAM) and must maintain annual SAM registration while an application is active and through the term of an award. Refer to [Section 3.7.1](#) for instructions on how to register your entity in the SAM.

Additionally, eligible applicants, including affiliates of the eligible applicant, must not hold a market share (in either production or distribution) greater than or equal to the entity that holds

the fourth largest share of that market for any of the following nutrients or components: nitrogen, phosphate, potash, or any combination thereof. All applicants must certify whether they hold a market share (either globally or domestically) greater than or equal to the top four manufacturers or processors or distributors as applicable in nitrogen, phosphate, potash, or any combination thereof, as applicable. If manufacturing or processing or planning to manufacture or process other eligible nutrients which are not listed above, no certification is required. Applicants must also disclose any minority partners or side agreements regarding any distribution or marketing plans.

If an applicant believes market share of the top four entities is not an accurate measure of the competitive environment for the particular segment which they are proposing to add fertilizer or fertilizer alternatives production capacity, they may submit a justification and request for a waiver with the application. For example, there may be a situation where two dominant firms control the vast majority of the market and the other smaller firms have very small fractions such that it is difficult to know what the third and fourth largest entities are and do not have the same market power as the two dominant firms. Farmer association applicants, as defined by the Capper Volstead Act, have a limited antitrust exemption and may also submit a waiver and justification.

Multiple applications from affiliated applicant entities (with “affiliation” defined by the Small Business Administration regulation [13 CFR 121.103](#), or successor regulation) are not permitted. Multiple projects owned by the same applicant entity should be combined into one application before submission.

### 2.5.2 Eligible Project and Activities

An applicant selected for this grant must use funds for the purpose of increasing or otherwise expanding the manufacturing and processing of fertilizer and nutrient alternatives and their availability in the U.S. Additionally, the fertilizer and nutrient alternatives addressed in the application must be used in connection with the production of agricultural commodities.

The applicant is responsible for defining the FPEP project. Eligible activities and costs include, but are not limited to, those associated with elements a) through c) below:

- a) Increase the domestic availability of fertilizer (nitrogen, phosphate, potash) and nutrient alternatives to agricultural producers for use in crop years 2023, 2024, and thereafter; and
- b) Provide agricultural producers with more domestic options for fertilizer and nutrient alternatives; or

- c) Reduce the impacts of climate change through the manufacturing and processing of or the use of sustainable, innovative, increased, and efficient fertilizer and nutrient alternatives production and use.

FPEP grant funds may only support projects physically located within Tribal Lands or in the U.S. and its territories.

FPEP grant funds may only support projects that comply with all federal, state, Tribal and local regulations governing fertilizer and nutrient manufacturing, processing, storage, distribution, and waste management.

A Tribal Government Resolution of Consent, a certification from the appropriate Tribal official, is required if a project is being proposed on Tribal Lands and the applicant is not the Tribe nor a Tribal Entity owned by the Tribe.

Within such a project, eligible uses of grant funds include, but are not limited to:

- Construction of a new facility or purchase of an existing facility for purposes of expanding capacity or increasing output, including the purchase of land;
- Pre-development costs including, but not limited to, engineering and other professional fees;
- Working capital to support expanded capacity or increased outputs;
- Modernizing or expanding an existing facility, including expansion and modifications to existing buildings and construction of new buildings at existing facilities;
- Purchasing new, or modernizing existing processing and manufacturing equipment;
- Customizing and installing equipment, devices, and technology that improves processing functions, worker conditions, or safety;
- Modernizing, customizing, and installing climate-smart equipment that reduces greenhouse gas emissions, increases fertilizer use efficiency, improves air and water quality, or meets one or more of USDA's climate action goals;
- Ensuring compliance with packaging and labeling requirements under applicable law (including sealing, packaging, boxing, labeling, conveying, and product moving equipment);

- Ensuring compliance with occupational and other safety requirements under applicable law;
- Engaging in workforce recruitment, training, apprenticeships, and retention to ensure expansion projects will be adequately staffed and crewed; or
- Improving fertilizer and nutrient alternatives logistics (e.g., distribution, transportation, and storage) to benefit producers in a cost-efficient manner. While logistics is an eligible use of funds, it cannot be the primary use of funds.

FPEP grant funds may only support costs incurred during the period of award performance. The period of performance starts when the Financial Assistance Agreement is executed. The maximum period of performance is 60 months depending on the complexity of the project. When defining the project, applicants should consider what expenses will be incurred after December 28, 2022, the (earliest) anticipated award date.

### 2.5.3 Applicants and Activities Not Eligible for Funding

For the purpose of this RFA, examples of fertilizer and nutrient alternatives not eligible for funding include but are not limited to precision agriculture technologies, such as drones. USDA has a variety of programs outside the current grant to assist both producers with the adoption and development of nutrient management plans and precision delivery of fertilizer as highlighted by the announcement in August regarding a variety of planned Natural Resources Conservation Service activities (see <https://www.usda.gov/media/press-releases/2022/08/15/usda-announces-new-opportunities-improve-nutrient-management> ).

Entities or their affiliates that hold a market share (in either manufacturing or processing or distribution) greater than or equal to the entity that holds the fourth largest share of that market for any of the following nutrients or components: nitrogen, phosphate, potash, or any combination thereof, are ineligible under FPEP.

Ineligible activities (existing or planned) and costs include but are not limited to those associated with elements a) through d) below:

- a) Research and development; or
- b) Manufacturing or processing of fertilizer and nutrient alternatives that are not commercially available and in use; or

- c) Fertilizer and nutrient alternative logistics activities, such as distribution, or transportation, or storage for which funding is made available under other authorities, e.g., <https://www.usda.gov/climate-solutions/climate-smart-commodities>, and <https://www.epa.gov/innovation/next-gen-fertilizer-challenges>.
- d) Site-specific applications of fertilizers, pesticides, irrigation, and herbicides, remote sensing, geographic information systems (GISs), and the Global Positioning System (GPS), as funding is also made available for these activities under other authorities, <https://www.nifa.usda.gov/grants/programs/precision-geospatial-sensor-technologies-programs>; <https://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/financial/eqip/>; and <https://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/financial/csp/>.

## 2.6 Cost Sharing and Matching Fund Requirements

Matching funds as a portion of total eligible project costs are required under this funding opportunity. The applicant must have other funding secured to complete the project as described in the application before execution of the Financial Award Agreement.

Grant requests of less than \$5 million have a matching fund requirement of 40 percent of the total eligible project cost. For example, a sustainable fertilizer project with total eligible costs of \$5 million could request grant funds of \$3 million and would be required to provide \$2 million in matching funds.

Grant requests of \$5 million or greater (up to the maximum grant request of \$100 million) have a matching fund requirement of 75 percent of the total eligible project costs. For example, a sustainable fertilizer construction project with total eligible costs of \$100 million could request grant funds of \$25 million and would be required to provide \$75 million in matching funds.

The applicant is responsible for defining the project and when defining total project costs, contributions including, but not limited to, property and equipment must support new or expanding manufacturing or processing capacity to be included as total project costs. Costs and activities that only support existing processing capacity are not eligible project costs and activities under FPEP.

In consideration of Section 6 of Executive Order 13175, “*Consultation and Coordination with Indian Tribal Governments*,” Qualifying applications requesting \$5 million or more from Tribes and Tribal Entities owned by Tribes, with projects that are well aligned with FPEP priorities as described in this RFA are eligible for a lower matching fund requirement of 50 percent of total eligible project costs. Qualifying applications from Tribes and Tribal Entities owned by Tribes

requesting less than \$5 million are eligible for a waiver of the matching funds requirement. Successful applications from Tribes will be automatically granted these waivers. Tribal Entities owned by Tribes are required to clearly identify ownership by Tribes in their application materials in order to be granted these waivers if successful.

### 3.0 APPLICATION AND SUBMISSION INFORMATION

#### 3.1 Electronic Application Package

Only electronic applications may be submitted via Grants.gov in response to this RFA. We urge applicants to submit applications early to the Grants.gov system. For an overview of the grant application process, see [Grants.gov](https://www.grants.gov), Apply for Grants webpage. This RFA contains the information needed to obtain and complete required application forms and RD-specific attachments. More information about applying through Grants.gov can be found in this document.

Applicants can find the opportunity under either the Assistance Listing Number 10.383, or the Funding Opportunity Number “RD-RBS-22-01-FPEP.”

#### 3.2 Application Requirements

Complete applications must be submitted in Grants.gov and include the following:

##### 1. Forms.

- a. Form SF-424, “Application for Federal Assistance”.
- b. Form SF 424-C, “Budget Information- Construction Programs”.
- c. Form SF 424-D, “Assurances-Construction Programs”.
- d. Form AD-2106, “Form to Assist in Assessment of USDA Compliance with Civil Rights Laws”.
- e. Form SF-LLL, “Disclosure of Lobbying Activities.” Note that all applicants must complete and submit this form as a part of the application even if the applicant does not conduct lobbying activities. Applicants that have not participated in lobbying activities should fill out all form fields and specify “not-applicable-do not lobby” in the fields asking for the name of lobbyist. This should allow submission of the form in grants.gov.

**2. Project Narrative.** The project narrative must address all elements a) through f), be typed single spaced in a standard typeface (e.g., Times New Roman, Arial, Calibri, Courier), with no smaller than 12-point font, one-inch margins, each page numbered, and must not exceed 20 pages (applies to this section only).

- a. **Executive summary.** Provide a summary detailing project goals and objectives in 500 words or less.
- b. **Applicant information.** Refer to [Section 2.5](#) and address all information specified in the section to allow RBCS to determine the eligibility of the applicant.
- c. **Project information.** Provide a workplan and budget to include all activities by task, associated dollar amounts, and proposed timeframe for completion. Ensure sufficient detail is provided to allow RBCS to determine project eligibility including all other funding that is needed to complete the project. Refer to [Section 2.5](#) for a list of activities eligible for funding. Unallowable costs and activities are listed in [Section 3.6](#).
- d. **Land ownership and access.** Describe how applicant owns and controls or has access to the land where the project is located or is to be located, as applicable.
- e. **Performance metrics.** State what metrics the applicant plans to achieve pertaining to [Section 2.5.2](#) elements a) through c). Applicant will report on these metrics one year after project completion.
- f. **Evaluation criteria.** Refer to [Section 4.1](#) and address all evaluation criteria. Discussion is required for each criterion to show how the project has merit and why it is likely to be successful. Include summaries of any feasibility studies, business, and marketing plans.

**3. Environmental review.** Review the environmental checklist available on Grants.gov to ensure that you provide the environmental documentation necessary to complete a NEPA environmental review. Contact RBCS to assist in determining what documentation is required to be provided. Refer to [Section 1.4](#) and the FPEP Website at [rd.usda.gov](http://rd.usda.gov) for additional information.

**4. Financial viability.** Provide the following to assist RBCS in determining financial viability of the project.

- a. Business plan;

- b. Three years of historical balance sheet and income statements. Applicants with fewer than three years of data should submit what is available, which may include but is not limited to balance sheets, income statements, and other related documentation to demonstrate the financial viability of the venture;
- c. Current balance sheet and income statements (within 90 days); and
- d. Two years of proforma and projected financial analysis including but not limited to balance sheet, income statement, cash flow analysis. Include financial projections with assumptions used in development of projections.

5. **Feasibility study.** Applicants requesting \$5 million or greater in grant funds (or equivalently, with total eligible project costs greater than \$20 million) must provide a recently completed (not more than 3 years old) feasibility study signed by a qualified consultant.

6. **Source documentation** (including resumes for key personnel) to support key personnel, construction labor, and operational workforce under scoring criterion 4 in [Section 4.1](#).

7. **Applicant certifications.** Applicants must certify in writing to the following as part of a complete application:

- a. The applicant must identify whether or not the applicant has a known relationship or association with an Agency employee. If there is a known relationship, the applicant must identify each Agency employee with whom the applicant has a known relationship.
- b. Certification that the applicant is a legal entity in good standing and operating in accordance with the laws of the state(s) or Tribe(s) where the applicant has a place of business.
- c. Certification that the applicant is not the subject of a pending administrative, civil, or criminal enforcement action.
- d. Certification by the applicant that any equipment required for the project is available, can be procured and delivered within the proposed project development schedule, and will be installed in conformance with manufacturer's specifications and design requirements. This would not be applicable when equipment is not part of the project.
- e. Certification by the applicant that the project will be constructed in accordance with applicable laws, regulations, agreements, permits, codes, and standards.



- f. Certification by the applicant that the applicant is not one of the top four manufacturers or processors or distributors of nitrogen, phosphate, or potash, as applicable.
- g. Certification by applicant of matching funds and other funding needed to complete the project as proposed in the application has been secured.
- h. Applicant certifies and acknowledges that:
  - i. RBCS will check the Do Not Pay System to verify that the applicant entity: has an active entity registration in the System for Award Management; has not been debarred or suspended; is not listed on Credit Alert Verification Reporting System; and is not listed on the Treasury Offset Program; and
  - ii. The applicant is responsible for resolving any issues that are reported in the Do Not Pay System. If issues are not resolved by the time RBCS makes program awards, RBCS may proceed to award funds to other eligible applicants.

**8. Design and construction documents.** For projects involving construction, include any design and construction documents. If selected for funding, RBCS will follow the construction planning and performing development regulation at 7 CFR 4280.125.

### 3.3 Submitted Application Qualification

Your application **will not be considered for funding** if it is:

- Received by Grants.gov after the submission deadline.
- Submitted via any method other than through [Grants.gov](https://www.grants.gov).
- Submitted to the wrong Funding Opportunity Announcement.
- Not responsive to the requirements of this RFA (e.g., project or applicant eligibility requirements, incomplete application, not providing all documents as required in [Section 3.2](#)).

### 3.4 Submission Date and Time

Applications must be submitted electronically through Grants.gov. Ensure that all components of the application are complete before submission. Allow enough time for the application process, as it may take more than one attempt before your application is successfully submitted. RBCS

encourages you to submit your application at least two weeks prior to the application deadline to ensure all certifications and registrations are met.

This RFA provides two application submission windows. Applicants must submit applications via Grants.gov. Applications must be received by 11:59 pm Eastern Time (ET) on:

- **45 days after the date of posting**, for applicants requesting financial assistance for eligible projects under the program. Priority will be given to projects that increase the availability of fertilizer (nitrogen, phosphate or potash) and nutrient alternatives to agricultural producers for use in crop years 2023 and 2024; and
- **90 days after the date of posting**, for applicants requesting financial assistance for eligible projects under the program.

Applications submitted after the deadline will not be considered for funding. An application is considered on time if it is received by the Agency by 11:59 pm Eastern Time.

### 3.5 Intergovernmental Review

FPEP is not subject to E.O. 12372 (Intergovernmental Review of Federal Programs), which requires intergovernmental consultation with state and local officials.

### 3.6 Funding Restrictions

All RBCS awards are subject to the terms and conditions, cost principles, and other considerations described in the Financial Assistance Agreement.

Grant funds may not be used for the following:

- Pay costs that only support existing processing capacity for a facility.
- Pay costs that have been or will be reimbursed by a third party.
- Pay costs incurred prior to the date the Financial Assistance Agreement is executed. Reimbursement for eligible expenses incurred 90 days prior to award may be allowed with Agency approval.
- Pay for indirect project costs.
- Pay costs that support or oppose union organizing.

- Pay costs associated with conducting research and development or with developing proof of concept.
- Support an application (project) that has a proposed period of performance longer than 60 months.
- Support an application (project) that requests grant funds less than \$1 million.
- Support an application (project) that requests grant funds in excess of \$100 million.

Applicants that have questions concerning the allowability of costs after reviewing this section should contact RD staff using the contact information listed under [6.0 Agency Contact](#).

### 3.7 [Grants.gov Application Submission, Receipt Procedures and Requirements](#)

#### 3.7.1 How to Register to Apply through Grants.Gov

The Grants.gov registration process can take **up to four weeks** to complete. Therefore, complete your Grants.gov registration allowing sufficient time to ensure it does not impact your ability to meet required application submission deadlines.

Instructions for organizations interested in applying for this grant funding opportunity can be found here: <https://www.grants.gov/web/grants/applicants/organization-registration.html>

- 1) *Obtain a Unique Entity Identifier (UEI)*: All entities applying for funding, including renewal funding, must have a UEI. Instructions for obtaining the UEI are available at <https://sam.gov/content/entity-registration>. Applicants must enter the UEI number in the data entry field labeled "UEI" on the SF- 424 form.
- 2) *Register with SAM*: In addition to having a UEI number, organizations applying online through Grants.gov must register with the [System for Award Management \(SAM\)](#). All organizations must register with SAM to apply online. Failure to register with SAM will prevent your organization from applying through Grants.gov. **SAM.gov accounts must be updated annually, and your organization must have an active SAM.gov account to submit your application to Grants.gov.**
- 3) *Create a Grants.gov Account*: The next step in the registration process is to create an account with Grants.gov. Applicants must know their organization's UEI number to complete this process. Completing this process automatically triggers an email request for

applicant roles to the organization's E-Business Point of Contact (EBiz POC) for review. The EBiz POC is a representative from your organization who is the contact listed for SAM. To apply for grants on behalf of your organization, you will need the Authorized Organization Role, as described in SAM.gov.

- 4) *Authorize Grants.gov Roles*: After creating an account on Grants.gov, the EBiz POC receives an email notifying him or her of your registration and request for roles. The EBiz POC will then log in to Grants.gov and [authorize the appropriate roles](#), which may include the Authorized Organizational Representative (AOR) role, thereby giving you permission to complete and submit applications on behalf of the organization. You will be able to submit your application online any time after you have been approved as an AOR.
- 5) *Track Role Status*: After registering with Grants.gov and authorizing the applicant AOR, Grants.gov allows you [to track your status](#).
- 6) *Electronic Signature and Authorization of Individuals Who Can Bind Applicant*: When applications are submitted through Grants.gov, the name of the organization's AOR that submitted the application is inserted into the signature line of the application, serving as the electronic signature. The EBiz POC **must** authorize individuals who are able to make legally binding commitments on behalf of the organization to act as an AOR; **this step is often missed, and it is crucial for valid and timely submissions.**

### 3.7.2 How to Submit an Application to RBCS via Grants.Gov

Applicants may use the Grants.gov Workspace, a shared, online environment where members of a grant team may simultaneously access and edit different webforms within an application. For each funding opportunity announcement, an applicant creates individual instances of a workspace.

- 1) *Create a Workspace*: This allows you to complete your Workspace online and route it through your organization for review before submitting.
- 2) *Complete a Workspace*: Add participants to the workspace, complete all the required forms, and check for errors before submitting.
  - a. *Adobe Reader*: If you decide not to apply by filling out the webforms you can download individual PDF forms in Workspace so that they will appear similar to other Standard or RD forms. The individual PDF forms can be downloaded and saved

to your local storage device, network drive(s), or external drives, then accessed through Adobe Reader.

**NOTE:** You may need to visit the Adobe Software Compatibility page on Grants.gov at <https://www.grants.gov/web/grants/applicants/adobe-software-compatibility.html> to download the appropriate version of the software. There is no cost for Adobe Reader Software.

b. *Mandatory Fields in Forms:* Fields marked with an asterisk and a different background color are mandatory fields you must complete to successfully submit your application.

c. *Complete SF-424 Fields First:* The forms are designed to fill in common required fields across other forms, such as the applicant name, address, and UEI number. To trigger this feature, an applicant must complete the SF-424 information first. Once it is completed, the information will transfer to the other forms.

- 3) *Submit a Workspace:* Submit your application through Workspace by clicking the Sign and Submit button on the Manage Workspace page, under the Forms tab. Grants.gov recommends submitting your application package **at least 24-48 hours prior to the application deadline** to provide you with time to correct any potential technical issues that may prevent application submission prior to the applicable application deadline.

**SPECIAL NOTE:** Grants.gov **does not** check for RBCS's required attachments. It is the applicant's responsibility to ensure that all required attachments listed in Section 4 3.2 are included.

- 4) *Track a Workspace:* After successfully submitting a workspace package, Grants.gov automatically assigns a Tracking Number (GRANTXXXXXXXX) to the package, which will be listed on the Confirmation page generated after submission.

*Applicant Support:* Grants.gov provides additional training resources, including video tutorials. Applicants may also call the 24/7 toll-free support number 1-800-518-4726, or email [support@grants.gov](mailto:support@grants.gov). Grants.gov will issue a ticket number to which you and Grants.gov can refer to if the issue is not resolved. For questions related to the specific grant opportunity, contact the individuals mentioned in section [6.0 Agency Contacts](#).

### 3.7.3 Timely Receipt of Requirements and Proof of Timely Submission

All applications must be received by the due date established in [Section 3.4](#). Proof of timely submission is automatically recorded by Grants.gov using an electronic date/time stamp generated when the application is successfully received by Grants.gov. The applicant AOR will

then receive an acknowledgement of receipt and a tracking number (GRANTXXXXXXXX) from Grants.gov. Applicant AORs will also receive the official date/time stamp and Grants.gov tracking number in an email serving as proof of their timely submission.

When RBCS successfully retrieves the application from Grants.gov, and acknowledges the download of submissions, Grants.gov will electronically acknowledge receipt of the application to the applicant AOR's email address. Applications will be deemed to have been received at the date and time that Grants.gov receives your application.

RBCS will not accept application packages by fax, email, or postal mail. Applications received by Grants.gov after the established due date for the program will be considered late and will not be considered for funding.

*Special Note for Applicants with Slow Internet Connections.* Applicants using slow internet, such as dial-up connections, may experience significantly longer transmission times when submitting applications via Grants.gov, especially if there are large attachments contained in the upload. Again, Grants.gov will provide either an error message or a successfully received transmission notification via email to the applicant AOR.

#### 3.7.4 Tips for Applicants

Register and submit applications early. **DO NOT WAIT UNTIL THE DAY OF THE APPLICATION DEADLINE.**

- Thoroughly read this RFA and follow all instructions provided by RBCS.
- Make sure you have the most recent copy of Adobe Reader installed on your computer and that it is compatible with [Grants.gov](https://www.grants.gov) software. Grants.gov supports Adobe Reader version 9.0.0 and higher.
- Limit Application File Size/ File Name Characters (50 or less).
- When uploading attachments, click the “Add Attachments” button (do NOT use the “paperclip” icon in Adobe Reader).
- Do not password-protect your documents and make sure all tracked-changes are “accepted”.
- Avoid Special Characters in File Names (\$, %, &, \*, Spanish "ñ", etc.).
- Input the correct UEI number on the SF-424 cover page.

- Review the Grants.gov Applicant User and Registration Guides:  
<http://www.grants.gov/web/grants/applicants/applicant-faqs.html>  
<https://www.grants.gov/web/grants/applicants/workspace-overview.html>.

## 4.0 APPLICATION REVIEW INFORMATION

### 4.1 Project Evaluation

As part of a complete application, applicants are required to provide a narrative describing their project. In general, all proposals will be evaluated at minimum on the following primary evaluation criteria and sub-criteria as drafted below.

The most competitive applications will describe project objectives that align with FPEP goals (as described in Section 1.3), expected outcomes and measures of success for the project. Failure to address all or part of a criterion, or to insufficiently communicate relevant project information, will result in a lower score.

#### 1. Financial Viability, Technical Merit, and Readiness

Applicants must describe in the project narrative, [Section 3.2.2](#), the strength of their proposed project and how the project will achieve financial viability, technical feasibility, and readiness, including:

- a. Strength of financial projections, listing of assumptions, and the documentation supporting the basis of their assumptions;
- b. Demonstrated track record of performance of technologies or systems, expectations of project's ability to support performance, and the documentation supporting such expectations;
- c. Adequacy of risk mitigation strategies to address major risks, e.g., labor risks, access to operating capital risk, loss of markets, legal risks, and management of zoning, environmental, waste, or utility issues;
- d. Relative maturity of the project type including milestones completed such as acquisition of real estate, applicable permits, and outreach to local, state, Tribal, and federal partners;
- e. Financing and capital, both confirmed and preliminary, committed to the project; and

- f. Any additional information the applicant wishes to provide that contributes to supporting the technical feasibility, financial viability, and readiness of the project.

Points are awarded on a scale of 0 to 25 points with a maximum of 25 points awarded for this subsection.

## 2. Market Impact & Opportunities

Applicants must describe any plans to procure inputs and provide more product opportunities for producers relative to the existing fertilizer products and to relevant improvements in market access. Applicants may describe any commitments from agricultural producers as input providers or as end users and potential buyers.

Applications must demonstrate how the project will increase or otherwise expand the manufacturing and processing of fertilizer and nutrient alternatives and their availability in the U.S., increase market choices and competition in the sector, and will be used in connection with the production of agricultural commodities.

For applications submitted in the **45 days after posting** application window, priority will be awarded to projects demonstrating readiness and the potential to provide product to agricultural producers in the 2023 and 2024 crop years.

Applicants must address the following criteria:

- a. Adequacy, plan and mechanisms for input procurement, including but not limited to the frequency of procurement and duration of any contracts or commitments, and the relation of such contracts or commitments to initial or current operational capacity and to anticipated maximum operational capacity.
- b. Projected production capacity for fertilizer and nutrient alternatives to be made available for use in the production of agricultural commodities in crop year 2023, crop year 2024, and crop year 2025. Applicants may share projected capacity for crop years 2026 and beyond, if relevant to the strength of their proposed project.
- c. The current and anticipated number of agricultural producers or producer-owned entities involved in or benefitting from the project, as appropriate.
- d. Current or prospective end-user commitments, including potential or identified markets (regional and national), and the potential amount of output to be sold.



- e. Other market concerns to be addressed or opportunities achieved should the project be selected for funding.

Points are awarded on a scale of 0 to 25 points with a maximum of 25 points awarded for this subsection.

### **3. Climate Impacts & Sustainability**

Describe how the project will reduce the impacts of climate change through the manufacturing and processing of sustainable, innovative, increased, and efficient fertilizer and nutrient alternatives. Include listing of assumptions and methodologies to support such assumptions.

Applicants must describe any projected benefits from the reduced impacts of climate change through sustainable, innovative, increased, and efficient fertilizer and nutrient production and use. Priority will be awarded to applications demonstrating greater benefits and longevity of benefits associated with the project.

RBCS encourages demonstrating environmental justice, equity, or economic opportunity benefits accruing to particularly underserved communities or agricultural producers. Such projects drive benefits to or reduce burden on **disadvantaged communities that are marginalized, underserved, and overburdened by pollution.**

- a) Expected type, scale, and longevity of benefits from greenhouse gas emission mitigation resulting directly from the project and project attributes that reduce the impacts of climate change.
- b) Expected type, scale, and longevity of benefits from greenhouse gas emission mitigation resulting indirectly from the project and project attributes that reduce the impacts of climate change including but not limited to supply chain and agricultural producers.
- c) Other (non-greenhouse gas) environmental benefits, such as water quality, soil quality, localized air pollution, and wildlife habitat, of sustainable fertilizer production.

Points are awarded on a scale of 0 to 25 points with a maximum of 25 points awarded for this subsection.

### **4. Regional Impact & Support**

Applicants must describe any local support of their proposed project as well as any strategies to generate regional support.

Applicants should also include information about the scale and scope of any commitments (financial, infrastructure, workforce or otherwise) provided by other federal, Tribal, state, or local governments, either directly or indirectly. The scale and scope of any commitments or contributions from other third parties should also be discussed.

Points are awarded on a scale of 0 to 15 points with a maximum of 15 points awarded for this subsection.

## **5. Personnel**

Applicants must describe key personnel involved with the project. Applications will be awarded priority based on how key personnel will contribute to the likelihood of project success, including but not limited to their leadership's qualifications, training, and experience. Experience of key personnel will be assessed in relation to the scale of the project and the type of the operation. Additional priority will be awarded to applicants that thoroughly describe in narrative and provide resumes and supporting documentation.

The Biden-Harris Administration is committed to principles that support worker empowerment and commitments to well-paying jobs, the free and fair choice to join a union, greater job security, safe and healthy workplaces, essential benefits like health insurance and retirement plans, and protections from workplace harassment and other forms of discrimination for workers across the country.

Points are awarded on a scale of 0 to 10 points with a maximum of 10 points awarded for this subsection.

## **6. Administrator Points**

The Biden-Harris Administration issued E.O. 14036 on "Promoting Competition in the American Economy" in July 2021 and is committed to selecting a variety of projects such that relevant sectors have robust competition and options for producers.

RBCS retains the discretion to afford priority to applications that will advance key Administration priorities: (1) Assist rural communities recover economically through more and better market opportunities and through improved access to domestically produced fertilizer; (2) Ensuring all rural residents have equitable access to RD programs and benefits from RD funded projects; and (3) Reduce climate pollution and increasing resilience to the impacts of climate change through economic support to rural communities. The website, <https://www.rd.usda.gov/priority-points> has more information on these priorities. The Agency

also retains the discretion to award priority to applications to achieve geographic, nutrient, technological, or other relevant diversity.

A maximum of 10 priority points will be awarded, with justification, at the discretion of the Administrator.

Administrative and Risk Criteria: Additional information may be requested from the applicant as a part of the application evaluation or after notification of selection. During this process, it may be necessary to request further documentation from the applicant (e.g., organizational information as part of the risk assessment, more detail regarding proposed costs) to, for example, ensure requirements were met (e.g., applicant meets eligibility criteria), and proposed costs are allowable, allocable, and necessary. Notification of selection does not guarantee an award.

## 4.2 Review and Selection Process

RBCS will review applications to determine if they are complete and eligible for assistance based on requirements specified in this RFA and other applicable federal regulations. Applications so deemed, will be evaluated by an independent review panel and afforded a priority score in accordance with the point allocation as specified in Section 4.1.

Applications will be selected for funding according to rank, beginning with the highest priority score and proceeding until the available funding is exhausted. Applications that cannot be fully funded may be offered partial funding at the Agency's discretion; as in the event of a ranked tie among two or more applications. Successful applicants must comply with requirements identified in Section 5. Award Administration Information.

## 5.0 AWARD ADMINISTRATION INFORMATION

### 5.1 Award Notices

Successful applicants will receive a signed notice of federal award, containing instructions on requirements necessary to proceed with execution and performance of the award.

### 5.2 Unsuccessful Applicants

Eligible applicants that are not selected for an award in the competition following the **45 days after posting** application window will automatically be entered into the competition following the **90 days after posting** application window.

Unsuccessful applicants in the second round of submissions will be notified in writing and informed of any review and appeal rights in accordance with the National Appeals Division regulation at [7 CFR part 11](#). Funding of successfully appealed applications will be limited to available funding.

### 5.3 Administrative and National Policy Requirements

Additional requirements that apply to recipients selected for FPEP can be found in the Grants and Agreements regulations of USDA codified in 2 CFR parts 180, 200, 400, 415, 417, 418, 421; 2 CFR parts 25 and 170; and 48 CFR 31.2, and successor regulations to these parts.

All recipients of federal financial assistance are required to report information about first-tier sub-awards and executive compensation (see [2 CFR part 170](#)). The recipient must have the necessary processes and systems in place to comply with the [Federal Funding Accountability and Transparency Act of 2006](#) (Pub. L. 109-282) reporting requirements (see [2 CFR 170.200\(b\)](#)), unless exempt under [2 CFR 170.110\(b\)](#).

All grants made under this RFA are subject to Title VI of the Civil Rights Act of 1964, USDA regulations at 7 CFR part 15, subpart A, and Section 504 of the Rehabilitation Act of 1973.

### 5.4 Reporting Requirements, Accountability and Grant Disbursement

#### 5.4.1 Project Performance and Reporting

After grant approval and through grant completion, you will be required to provide the following, as indicated in the Financial Assistance Agreement:

- a. A SF-425, “Federal Financial Report,” and a project performance report will be required on a semiannual basis (due 30 working days after the end of the semiannual period). For the purposes of this grant, semiannual periods end on March 31st and September 30th. The project performance reports shall include the elements prescribed in the Financial Assistance Agreement; including, as appropriate, but not limited to, processing capacity added, new value-added products developed, and jobs created.
- b. A final project and financial status report within 120 days after the expiration or termination of the grant.
- c. Outcome project performance report. One year after project completion you must provide a project performance report describing your outcomes in expanding processing capacity

as identified in your Financial Assistance Agreement. The report is due 60 days after the first full year following the year in which the expansion project was completed.

RBCS will conduct onsite reviews more frequently during construction and at least annually for all projects during the period of performance.

Note that if FPEP grant funds will be utilized for the purchase of or improvements and fixtures to real estate, RBCS will file a Notice of Federal Financial Interest on the subject real estate. Real property must be used for the originally authorized purpose of the grant award. Recipients must not dispose of or encumber its title or other interests if it is being used for the originally authorized purpose.

RBCS must be notified if a sale or change of total or partial ownership of the facility is under consideration. RBCS will issue disposition instructions in accordance with [2 CFR 200.311](#) and the recipient may be required to return a proportional amount of funds received from the sale or change of total or partial ownership.

If the facility is going to be sold or undergo a change of total or partial ownership within ten years after receiving the grant, the awardee will notify USDA and the sale will be subject to USDA review to determine if the sale or change of total or partial ownership is consistent with the purposes of the program. The review could require partial return of grant funds or other actions.

Applicants are advised that the use of grant funding through FPEP is subject to [2 CFR Part 200](#), including the specific provisions relating to disposition of real property ([2 CFR 200.311](#)), equipment ([2 CFR 200.313](#)), supplies ([2 CFR 200.314](#)), intangible property ([2 CFR 200.315](#)), and the prohibition of the encumbrance of property without agency approval ([2 CFR 200.316](#)).

#### 5.4.2 Grant Disbursement

There are two options for obtaining grant disbursement under FPEP.

- a. Grant funds will be disbursed in full after the project is completed and a valid grant of inspection (federal or equivalent) is provided to RBCS. If this option is utilized, RBCS will modify and make applicable the construction planning and performing development requirements at [7 CFR 4280.125](#).
- b. Grant funds will be disbursed on a reimbursement basis through 90 percent of grant disbursement. The final 10 percent of grant funds will be held until construction or installation of the project is completed and a valid grant of inspection (federal or

equivalent) is provided to RBCS. If this option is utilized, RBCS will follow the construction planning and performing development requirements at [7 CFR 4280.125](#).

- i. Recipients may submit requests for reimbursement no more frequently than monthly. Ordinarily, payment will be made within 30 days after receipt of a proper request for reimbursement.
- ii. Recipients must not request reimbursement for the federal share of amounts withheld from contractors to ensure satisfactory completion of work until after any such payments have been made to the contractors.
- iii. Recipients must use SF-271, “Outlay Report and Request for Reimbursement for Construction Programs,” to request grant reimbursements. Fund requests must at a minimum include documentation of costs and evidence of payment(s), including payment date(s). Failure to provide sufficient documentation of costs and evidence of payment, including payment date, may result in a denial of reimbursement.

## 6.0 AGENCY CONTACTS

### 6.1 Program Inquiries

After closely reviewing this RFA in its entirety, applicants and other interested parties with questions are encouraged to contact the FPEP staff listed below or at [fpep@usda.gov](mailto:fpep@usda.gov).

**For additional information, visit the FPEP Website:** <https://www.rd.usda.gov/fpep>.

### 6.2 Team Lead and Grants Management Specialist

Name: Anthony Crooks  
E-Mail: [fpep@usda.gov](mailto:fpep@usda.gov)

### 6.3 Available Resources

RBCS provides resources and information on its Website, <https://www.rd.usda.gov/fpep>, that may be helpful to applicants, including Frequently Asked Questions (FAQ’s), required application forms and Agency contact information.

Staff is available to provide timely responses to questions emailed to [fpep@usda.gov](mailto:fpep@usda.gov).

## 6.4 Address

U.S. Department of Agriculture  
1400 Independence Avenue, SW  
Room 5803-S, Stop 3201  
Washington, DC 20250-3201

## 6.5 Grants.gov Questions

All questions regarding Grants.gov technical assistance must be directed to Grants.gov, Applicant Support Portal at <https://www.grants.gov/web/grants/support.html>.

## 7.0 OTHER INFORMATION

### 7.1 Definitions

For the purpose of FPEP, the following definitions will apply:

**Agency.** The Rural Business—Cooperative Service or successor Agency assigned by the Secretary of Agriculture to administer the Fertilizer Product Expansion Program.

**Complete application.** An application that contains all parts necessary for RBCS to determine applicant and project eligibility, the financial feasibility and technical merit of the project and that contains sufficient information to determine a priority score for the application as determined by RBCS.

**Cooperative.** An entity that is legally chartered by the state or Tribe in which it operates as a cooperatively operated business, or an entity that is not legally chartered as a cooperative but is owned and operated for the benefit of its members, with returns of residual earnings paid to such members on the basis of patronage.

**Feasibility study.** A report including an opinion or finding conducted by a qualified consultant(s) evaluating the economic, market, technical, financial, and management feasibility of a proposed project or operation in terms of its expectation for success.

**Fertilizer.** Fertilizer refers to any organic or inorganic material of natural or synthetic origin which is added to soil to provide the macronutrients necessary to sustain plant growth. For the purpose of this RFA, such macronutrients are nitrogen, phosphorus, and potash. Common examples of nitrogen fertilizer include but are not limited to: Nitrate (NO<sub>3</sub>), Ammonia (NH<sub>3</sub>) and Ammonium (NH<sub>4</sub>), Urea (CO<sub>2</sub>NH<sub>2</sub>). Ammonium Nitrate, Calcium Nitrate, Cal-Nitro,

Ammonium Sulfate, Diammonium Phosphate (also contains 46% available phosphorus), Anhydrous Ammonia, and Aqua Ammonia. Common examples of phosphate include but are not limited to: Superphosphate (OSP), Concentrated Superphosphate (CSP), Monoammonium Phosphate (MAP), Diammonium Phosphate (DAP), Ammonium Polyphosphate (APP), and Rock Phosphate. Common potassium fertilizer sources include but are not limited to: Potassium chloride, Potassium sulfate, Potassium-magnesium sulfate (K-mag or Sul-Po-Mag), Potassium thiosulfate, and Potassium nitrate.

**Financial Assistance Agreement.** Form RD 4280-2, Rural Business-Cooperative Service Financial Assistance Agreement, or successor form is an agreement between RBCS and the recipient setting forth the provisions under which the grant will be administered.

**Independently Owned and Operated.** Not controlled directly or indirectly by any entity, including a foreign state or controlled by others in matters of opinion, conduct, etc. and not subject to another's authority or jurisdiction.

**Market Share.** A company's market share is its production or distribution capacity measured as a percentage of an industry's total production or distribution capacity.  $\text{Company Capacity} / \text{Market Capacity} * 100 = \text{Market Share}$ . For purposes of the certification, both a global and domestic market share should be calculated and certified. Proposals producing fertilizer alternatives should include the traditional capacity along with the alternative capacity in this calculation (e.g. a proposal creating a nitrogen substitute would be compared with the entire capacity to produce nitrogen fertilizer and not just the subset of producers of substitutes).

**National Appeals Division.** A division of the United States Department of Agriculture as described in [7 CFR part 11](#).

**Nutrient Alternatives.** Refers to additives (either to the fertilizer to the soil or with the seed), and the related innovations and processes that reduce reliance on fertilizers or improve the efficiency of its use. This also refers to supporting the production and use of sustainable and next generation fertilizers over other fertilizers. Common examples of nutrient alternatives include but are not limited to: compost, biochar, acidulated organic fertilizer, biofertilizers, fish emulsion, hydrolyzed liquid fish, bone meal, processed manure, rock phosphate, cottonseed meal, alfalfa meal, blood meal, feather meal, liquid kelp, biosolids, seed coatings or furrow treatments (to enhance nutrient absorption or inoculate plants or soil with beneficial microorganisms such as symbiotic nitrogen fixing bacteria), and formula-modified fertilizers. Examples of what is not considered nutrient alternatives are various unprocessed waste materials such as: tree leaves, food scraps, weeds, eggshells, and coffee grounds, etc., that although may be ingredients to a composted nutrient alternative are not considered nutrient alternatives. Improvements to nutrient management or to supply equipment to deliver nutrient alternatives is



not eligible unless associated and combined with a proposal supporting nutrient alternatives. USDA has other existing tools to support the planning and adoption of these technologies such as split-application or precision fertilization. Proposals should clearly articulate how and what amount of conventional fertilizer is replaced or reduced by the fertilizer alternative (e.g. how many pounds of nutrient equivalent per acre).

**Program.** Program means the Fertilizer Product Expansion Program authorized by the CCC Charter Act and administered by RBCS.

**Qualified Consultant.** An independent third-party person possessing the knowledge, expertise, and experience to perform the specific task required.

**State.** Any of the 50 States of the United States, the Commonwealth of Puerto Rico, the District of Columbia, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands.

**Tribal Entities.** Tribal entities is expansive and includes all entities falling under the eligible legal structures, including but not limited to: Tribal owned corporations, inter-Tribal non-profits and associations, Alaska native corporations, native entities within the state of Alaska recognized by and eligible to receive services from the U.S. Department of the Interior's Bureau of Indian Affairs, Native Hawaiian organizations including Homestead Associations, and entities majority owned by individual members of a Tribe.

**Tribal Land.** Tribal Land means lands deemed to be Indian country as defined in 18 U.S.C. § 1151 and 40 C.F.R. § 171.3:

- a. All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation;
- b. All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and
- c. All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

Consistent with the statutory definition of Indian country, as well as federal case law interpreting this statutory language, lands held by the federal government in trust for Tribes that exist outside of formal reservations are informal reservations and, thus, are Indian country.

**Tribe.** Tribe means the term as defined in the [Federally Recognized Indian Tribe List Act of 1994 \(Pub. L. 103-454; 108 Stat. 4791, 4792\)](#).

**U.S. and its territories.** Any of the 50 States of the United States, the Commonwealth of Puerto Rico, the District of Columbia, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands.

**Value-added.** The incremental profit earned from each transaction or step in manufacture after deducting production costs, depreciation, and other relevant expenses. Each stage of production or ownership transfer typically adds value to a good, product, or service.

**Workplan.** A narrative provided by the applicant that demonstrates the feasibility of the proposed project and facility to meet the objectives of the FPEP program, including a set of goals, strategies, anticipated outcomes, and well-developed targeting criteria for doing so.

## 7.2 Non-Discrimination and Equal Opportunity Statements

In accordance with federal civil rights laws and USDA civil rights regulations and policies, the USDA, its Mission Areas, agencies, staff offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language) should contact the responsible Mission Area, agency, or staff office; the USDA TARGET Center at (202) 720-2600 (voice and TTY); or the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a complainant should complete a Form AD-3027, *USDA Program Discrimination Complaint Form*, which can be obtained online at <https://www.usda.gov/sites/default/files/documents/usda-program-discrimination-complaint-form.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation.

The completed AD-3027 form or letter must be submitted to USDA by:

Mail: U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410; or

Fax: (833) 256-1665 or (202) 690-7442; or

Email: [program.intake@usda.gov](mailto:program.intake@usda.gov)

USDA is an equal opportunity provider, employer, and lender.

### 7.3 Freedom of Information Act Requests

The Freedom of Information Act (FOIA) 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, subparts A and G](#)), govern the release or withholding of information to the public in connection with this federal award. The release of information under these laws and regulations applies only to records held by RD and imposes no requirement on the recipient or any subrecipient to permit or deny public access to their records.

FOIA requests for records relating to this federal award may be directed to USDA, USDA Rural Development Business Center, Records and Information Management Branch, Room 0706-S, 1400 Independence Ave., SW, Washington, DC 20250-0706, Telephone: (202) 720-2826; or email: [RD.FOIA@usda.gov](mailto:RD.FOIA@usda.gov).

### 7.4 Paperwork Reduction Act

According to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq), an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid Office of Management and Budget (OMB) control number. The valid OMB control number for this information collection is 0570-NEW. The Agency will be requesting an emergency clearance by OMB for this collection of information.

The time required to complete this information collection is estimated to average 10.42 hours per response, including the time for reviewing instructions, searching existing data sources, gathering, and maintaining the data needed, and completing and reviewing the collection of information.

## 7.5 Congressional Review Act

Pursuant to Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act or CRA), 5 U.S.C. 801 et seq., the Office of Information and Regulatory Affairs in the Office of Management and Budget designated this action as a major rule, as defined by 5 U.S.C. 804(2), because it is likely to result in an annual effect on the economy of \$100,000,000 or more.

Accordingly, there is a 60-day delay in the effective date of this action. Application selection will not begin until after 75 days after posting. Therefore, the 60-day delay required by the CRA is not expected to have a material impact upon the administration and/or implementation of the program.

## 7.6 E.O. 13175 Consultation and Coordination with Indian Tribal Governments

This E.O. imposes requirements on the Agency in the development of regulatory policies that have Tribal implications or preempt Tribal laws. USDA conducted consultation with Tribes on equitable access to USDA's Economic Development programs and ongoing barriers on April 11, 2022. In response to feedback from this session, the Agency has included a very broad definition of Tribal Entities to maximize the range of applicants that can apply under this RFA.

Additionally, the Agency has incorporated flexibility to reduce the matching funds requirements for applications from Tribes and Tribal Entities owned by Tribes. If Tribal leaders are interested in additional consultation with the Agency, they are encouraged to contact USDA's Office of Tribal Relations or Rural Development's Native American Coordinator at: [AIAN@usda.gov](mailto:AIAN@usda.gov) to request such a consultation.

## 7.7 Build America, Buy America

Awards under this announcement for Infrastructure projects to Non-Federal entities, defined pursuant to [2 CFR 200.1](#) as any state, local government, Indian tribe, institution of higher education, or nonprofit organization, shall be governed by the requirements of Section 70914 of the Build America, Buy America Act (BABA) within the Infrastructure Investment and Jobs Act. Recipients of an award of federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

- 1) All iron and steel used in the project are produced in the U.S. This means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the U.S.

- 2) All manufactured products used in the project are produced in the U.S. This means the manufactured product was manufactured in the U.S., and the cost of the components of the manufactured product that are mined, produced, or manufactured in the U.S. is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation.
- 3) All construction materials (excludes cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives) are manufactured in the U.S. This means that all manufacturing processes for the construction material occurred in the U.S.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

Recipients are expected to use Buy America compliant materials; however, waivers will be available, if necessary, to allow the use of the non-qualifying materials. Recipients with questions about Build America, Buy America compliance should contact the agency.